411

SUPREME COURT OF THE UNITED STATES.

No. 114.

THE COMMONWEALTH OF PENNSYLVANIA, PLAINTIFF IN ERROR,

vs.

WILLIAM RAVENEL, EXECUTOR OF ELIZA KOHNE, DECEASED.

IN ERROR TO THE CIRCUIT COURT U. S. FOR THE EASTERN DISTRICT OF PENNSYLVANIA.

INDEX.

	Original.	Print.
Declaration	1	1
Plea of defendant and issue	4	2
Jury	4	2
Bill of exceptions	6	3
Verdict of the jury	107	51
Judgment	107	52
Writ of error	108	52
Clerk's certificate	109	52
Citation and service	110	53

GIDEON, Print.

Pleas before the honorable the Judges of the Circuit Court of the United States in and for the Eastern District of Pennsylvania, in the third circuit—Of April session, 1855, No. 3.

It is thus contained:

Declaration.

William Ravenel, a citizen of the State of South Carolina, and executor of the last will and testament of Eliza Kohne, deceased, was summoned to answer the Commonwealth of Pennsylvania in an action of debt, for that whereas hitherto, to wit, on the 19th day of July, A. D. 1854, a certain decree was made in and by William Bowers, esq., register of wills for the city and county of Philadelphia, in a certain matter then depending before him, the said register, to wit: in the matter of the collateral inheritance tax on the estate of Eliza Kohne, deceased, wherein the said plaintiff was petitioner or claimant, and the said defendant, as executor of the last will and testament of Eliza Kohne, deceased, was defendant or respondent, by which said decree it was found, and the said register did thereby then and there find, the said defendant, and the said estate of the said Eliza Kohne, deceased, liable to the plaintiff in the sum of nine thousand three hundred and seventeen $\frac{50}{100}$ dollars for collateral inheritance tax on the real and personal estate of the said Eliza Kohne, deceased, as by the said decree more fully appears, of which said decree the said defendant afterwards, to wit, on the first day of August, A. D. 1854, at the district aforesaid, had notice, which said decree still remains in full force and effect, not in anywise reversed, set aside, or otherwise vacated, and the said plaintiff has not obtained any satisfaction of or upon the said decree for the said sum of money so decreed as aforesaid, whereby an action hath accrued to the said plaintiff to demand and have of and from the said defendant, the said sum of nine thousand three hundred and seventeen $\frac{50}{100}$ dollars, the said sum above demanded.

And whereas the said defendant afterwards, to wit, on the 2d day of April, A. D. 1855, at the district aforesaid, had become, and was, indebted to the said plaintiff in the further sum of five thousand eight hundred and twenty $\frac{30}{100}$ dollars upon, and by virtue of, a certain decree before then made in and by the said register in a certain matter then depending before the said register, by which said last mentioned decree the said defendant was decreed to pay the said plaintiff the sum of nine thousand three hundred and seventeen $\frac{50}{100}$ dollars, which is still unpaid and unsatisfied to the plaintiff, to wit, at the district aforesaid, whereby an action has accrued to the plaintiff to demand and have, of and from the said defendant, the said sum of five thousand eight hundred and twenty $\frac{23}{100}$ dollars.

And whereas the said defendant afterwards, to wit, on the 2d day

Pleas before the honorable the Judges of the Circuit Court of the United States in and for the Eastern District of Pennsylvania, in the third circuit—Of April session, 1855, No. 3.

It is thus contained:

Declaration.

William Ravenel, a citizen of the State of South Carolina, and executor of the last will and testament of Eliza Kohne, deceased, was summoned to answer the Commonwealth of Pennsylvania in an action of debt, for that whereas hitherto, to wit, on the 19th day of July, A. D. 1854, a certain decree was made in and by William Bowers, esq., register of wills for the city and county of Philadelphia, in a certain matter then depending before him, the said register, to wit: in the matter of the collateral inheritance tax on the estate of Eliza Kohne, deceased, wherein the said plaintiff was petitioner or claimant, and the said defendant, as executor of the last will and testament of Eliza Kohne, deceased, was defendant or respondent, by which said decree it was found, and the said register did thereby then and there find, the said defendant, and the said estate of the said Eliza Kohne, deceased, liable to the plaintiff in the sum of nine thousand three hundred and seventeen $\frac{50}{100}$ dollars for collateral inheritance tax on the real and personal estate of the said Eliza Kohne, deceased, as by the said decree more fully appears, of which said decree the said defendant afterwards, to wit, on the first day of August, A. D. 1854, at the district aforesaid, had notice, which said decree still remains in full force and effect, not in anywise reversed, set aside, or otherwise vacated, and the said plaintiff has not obtained any satisfaction of or upon the said decree for the said sum of money so decreed as aforesaid, whereby an action hath accrued to the said plaintiff to demand and have of and from the said defendant, the said sum of nine thousand three hundred and seventeen $\frac{50}{100}$ dollars, the said sum above demanded.

And whereas the said defendant afterwards, to wit, on the 2d day of April, A. D. 1855, at the district aforesaid, had become, and was, indebted to the said plaintiff in the further sum of five thousand eight hundred and twenty $\frac{23}{100}$ dollars upon, and by virtue of, a certain decree before then made in and by the said register in a certain matter then depending before the said register, by which said last mentioned decree the said defendant was decreed to pay the said plaintiff the sum of nine thousand three hundred and seventeen $\frac{50}{100}$ dollars, which is still unpaid and unsatisfied to the plaintiff, to wit, at the district aforesaid, whereby an action has accrued to the plaintiff to demand and have, of and from the said defendant, the said sum of five thousand eight hundred and twenty $\frac{23}{100}$ dollars.

And whereas the said defendant afterwards, to wit, on the 2d day

of April, A. D. 1855, at the district aforesaid, was indebted to the said plaintiff in the sum of five thousand eight hundred and twenty $\frac{23}{100}$ dol a-, for collateral inheritance taxes on the estate of Eliza Kohne, deceased;

And in $5,820 $\frac{23}{100}$ for money had and received by the said defendant for the use of the said plaintiff;

And in $5,820 $\frac{23}{100}$ for money found to be due by the defendant to the plaintiff on an account then and there stated between them; whereby an action has accrued to the plaintiff to demand and have of and from the defendant the said several sums of money above demanded. Yet the defendant has not paid the sum, or any part thereof, to the plaintiff's damage of ten thousand dollars, and thereupon he brings suit.

Plea of Defendant.

And thereupon the said defendant, by his attorney, B. Gerhard, esquire, comes and defends the wrong and injury, when, &c., and says he does not owe the said several sums of money above demanded, or any part thereof, in manner and form as the said plaintiff hath above thereof complained against him, and of this the said defendant puts himself upon the country, &c.

And the said plaintiff, as to the plea of the said defendant by him above pleaded, and whereof he hath put himself upon the country, doth the like.

Jury.

Therefore let a jury thereupon come before the judges aforesaid, at Philadelphia aforesaid, on the seventh day of April, anno Domini one thousand eight hundred and fifty-six, by whom, &c., who neither, &c., to recognise, &c., because as well, &c. The same day is then and there given to the parties aforesaid.

On which said seventh day of April, A. D. 1856, come the parties aforesaid, by their attorneys aforesaid, and the jurors of the jury aforesaid being called, likewise come; and further day is given to the parties aforesaid, until the sixth day of October, anno Domini one thousand eight hundred and fifty-six.

Therefore, as before, let a jury thereupon come before the judges aforesaid, at Philadelphia aforesaid, on the sixth day of October aforesaid, by whom, &c., who neither, &c., to recognise, &c., because as well, &c. The same day is then and there given to the parties aforesaid.

On which said sixth day of October, A. D. 1856, came the parties aforesaid, by their attorneys aforesaid, and the jurors of the jury aforesaid being called, likewise come; and further day is given to the parties aforesaid, until the twenty-third day of October aforesaid.

Therefore, as before, let a jury thereupon come before the judges aforesaid, at Philadelphia aforesaid, on the twenty-third day of October, anno Domini one thousand eight hundred and fifty-six, by whom,

&c., who neither, &c., to recognise, &c., because as well, &c. The same day is then and there given to the parties aforesaid.

On which said twenty-third day of October, A. D. 1856, come the parties aforesaid, by their attorneys aforesaid, and the jurors of the jury aforesaid being called, likewise come, to wit: Michael Arnold, Abraham Kerper, Philip Stimmell, Wilson H. Tweed, Edward Killingsworth, George Weaver, Benjamin Christ, Milligan S. Gebler, Michael H. Drehr, Dennis Collins, George W. Meyers and William C. Enos, who are duly empanelled, returned, chosen, tried, and sworn or affirmed to speak the truth of the matter within contained.

Bill of Exceptions.

Circuit Court of the United States for the eastern district of Pennsylvania, April session, 1855, No. 3.

THE COMMONWEALTH OF PENNSYLVANIA
vs.
WILLIAM RAVENEL, a citizen of South Carolina, executor of the last will and testament of Eliza Kohne, deceased.

Be it remembered that on the fourteenth day of April, A. D. 1855, came the Commonwealth of Pennsylvania into the circuit court of the United States in and for the eastern district of Pennsylvania, in the third circuit, and impleaded William Ravenel, a citizen of South Carolina, executor of the last will and testament of Eliza Kohne, deceased, in which the said Commonwealth of Pennsylvania declared (prout narr;) and said William Ravenel pleaded (prout pleas;) and thereupon issue was joined between them. And afterwards, to wit, at a session of the said court, held at the city of Philadelphia, in the said eastern district of Pennsylvania, before the honorable Robert C. Grier, one of the justices of the Supreme Court of the United States, and the honorable John K. Kane, judge of the district court of the United States in and for the eastern district of Pennsylvania, on Thursday, the twenty-third day of October, A. D. 1856, the aforesaid issue between the parties came to be tried by a jury of the said district, for that purpose duly empanelled, (prout list of jurors,) at which date came as well the said plaintiff as the said defendant, by their respective attorneys, and the jurors of the jury aforesaid, empanelled to try the said issues, being also called, came, and were then and there in due manner chosen and sworn, or affirmed, to try the said issue.

And upon the trial the counsel for the plaintiff gave in evidence a certain report of the State appraiser, filed in the office of the register of wills, in and for the city and county of Philadelphia, on the twenty-fourth day of January, A. D. 1853, in the matter of the estate of Eliza Kohne, deceased. And the counsel for the plaintiff gave in evidence a certain decree of the said register of wills, etc., in and for the said city and county of Philadelphia, in the matter of the collateral inheritance tax of the estate of the said Eliza Kohne, deceased, (prout

copy annexed, marked A.) And the said counsel for the plaintiff then gave in evidence a certain written agreement between the counsel for the plaintiff and *and* defendant, and a re-appraisement in pursuance thereof, filed in the office of the said register of wills, (prout copy annexed, marked B.) And the counsel for the plaintiff then gave in evidence the will of Frederick Kohne, deceased, as the same was proved before the register of wills for the city and county of Philadelphia, the said will being dated twenty-eighth of April, 1829, and proved June 3d, 1829; and also a certified copy of said will and probate, (prout copy annexed, marked C.) And the counsel for the plaintiff then gave in evidence the inventory and appraisement of the estate of the said Frederick Kohne, deceased, as filed in the office of the said register of wills for the city and county of Philadelphia, and an additional inventory and appraisement of the same also filed in the said office, all on the twentieth day of June, 1829, (prout copy annexed, marked D.) The said counsel for the plaintiff then gave in evidence the accounts of the executors of the will of the said Frederick Kohne, as filed from time to time in the office of the said register at Philadelphia, from the year 1831 until 1852, both inclusive, and the same being voluminous, at the suggestion of the said court abstracts of and extracts from the same were furnished for the use of the court and jury, (prout copies annexed, marked E.) And the counsel for the plaintiff then gave in evidence the final and distributive account of Eliza Kohne, the surviving executrix of the will of the said Frederick Kohne, her husband, filed in the office of the said register in Philadelphia, signed by the said Eliza, and sworn to by John C. Lang, as attorney in fact for the said Eliza Kohne, March fifteenth, 1852, (prout copy annexed, marked F.) And the counsel for the plaintiff then gave in evidence divers books from the office of the commissioners for the city and county of Philadelphia, containing returns made by the assessors of Penn township, in the then county of Philadelphia, and of Middle ward in the city of Philadelphia, containing the names of the taxable inhabitants, and the property assessed therein, and owned by them; and the same being voluminous, it was suggested by the court that abstracts of such portions of said books as were relied on by the plaintiff should be furnished for the use of the court and jury, which was done, (prout copies annexed, marked G.)

And the counsel for the plaintiff then called Simon Mudge, who being duly sworn, deposed as follows: I was collector of taxes for the Middle ward in the city of Philadelphia, from the year 1843 to the year 1853, and kept an account of the taxes collected by me during the time I was collector; these books (producing ten bound volumes) contain the entries made by me, relative to the collection of taxes in Middle ward during that time. These books were then given in evidence by the counsel for the plaintiff; the witness being shown the books for 1850, page 73, for 1851, page 79, and for 1852, page 77, said the taxes on the properties referred to underneath the names of Eliza Kohne, and of Eliza Kohne and John Bohlen, executors of Frederick Kohne, de-

ceased, were paid to me without objection. These entries were then read in evidence, as follows:

	Value.	County.	State.	Poor.	Total.	
1850.—*Page* 73.						
No. 311.—Eliza Kohne.....	27,600	151 80	82 80	49 68		
8 shares S. C. Bank.....	200	1 10	60			
Money loaned.....	3,053	16 79	9 15			
Domestic loans.....	3 000	16 50				
Furniture.....	2,000	11 00	6 00			
1 carriage.....	400	2 20	4 00	72		
2 horses.....	200	1 10	60	36		
1 plain gold watch.....	.....	.....	75	.....	355 15	Paid.
Eliza Kohne and John Bohlen, executors of Fred'k Kohne, deceased.						
31 shares Santee Canal.....	3,100	17 05	9 30			
Mortgage.....	5,000	27 50	15 00			
Moneys loaned.....	196,000	1,078 00	388 00			
Domestic loans.....	125,000	687 50				
Silver plate.....	1,496	8 22½	4 50	.....	2,435 07½	Paid.
Eliza Kohne.....	8,150	44 80	24 45	14 67	83 94	Paid.
1851.—*Page* 79.						
No. 311 —Mrs. Eliza Kohne...	27,600	151 80	82 80	52 44		
8 shares S. C. bank stock.....	200	1 10	60			
Stocks out of the State.....	3,053	16 79	9 16			
" in the State.....	3.000	16 50				
Furniture.....	2.000	11 00	6 00			
1 carriage.....	400	2 20	4 00	76		
2 horses.....	200	1 10	60	38		
1 watch.....	.....	.....	75			
1 buggy.....	.....	.....	.....	50	358 48	Paid.
1852.—*Page* 77.						
No. 311.—Mrs. Eliza Kohne..	27,600	165 60	82 80	52 50		
8 shares S. C. Bank.....	200	1 20	60			
Stocks in other States.....	2,053	12 32	6 16			
Stocks in this State.....	2,000	12 00				
One carriage.....	400	2 40	4 00	80		
Two horses.....	200	1 20	60	40		
One gold watch.....	.....	.....	75			
Furniture.....	2,000	12 00	6 00	.....	364 03	Paid.

Cross-examined. These were all paid by Mr. Bohlen; she never paid herself. The counsel for plaintiff then gave in evidence certain printed books called the "Philadelphia Directory," purporting to contain the names of the inhabitants of that city, their occupations, places of business, dwelling-houses, &c., at the time of their publication respectively, to wit, the directories for the following: from 1814 to 1852 inclusive. In these are found the following, which were read to the jury, to wit:

Directory for 1814, Frederick Kohne, merchant, 351 High st.
Do. for 1820, do. Gentleman, Chesnut near Eleventh.
Do. for 1829, do. Gentleman, 3d door W. of 10th.

The name of Mr. Kohne appears in every year from 1820 to 1829.

Directory for 1830, Kohne, widow of Frederick, Gent., Chesnut ab. 10th.

Directory for 1844, Mrs. E. Kohne, widow of Frederick, Gent., Chesnut above 10th.

And so Mrs. Kohne's name appears in every intervening year, from 1830 to 1852, except in those for 1832, 1835, and 1836.

The counsel for the plaintiff then called Andrew Patton, who being duly sworn, deposed that he was farmer and gardener to Mrs. Eliza Kohne from about 1832 to 1852. The farm was in Turner's lane. There was a mansion-house and farm-house, gardener's house, and stable, on the property. The garden was two acres in extent. There were three horses on the farm sometimes. He took care sometimes of house and garden in Chesnut st. On Mrs. Kohne's coming to the house from the South, there were three permanent servants there—Edward, James, Susan Inglis and Lucy Inglis; servants generally went part of the way with Mrs. Kohne to South Carolina. The house was well furnished all over; there were wines there which I never saw, and plate; he took the plate to the bank on Mrs. Kohne's leaving, every fall, contained in a little square box; the box was heavy; took it in a wagon; took a trunk of papers also to Mr. Bohlen's counting-house. Mrs. Kohne generally went South every fall, and returned the next spring or summer; on her return he brought them back again. There were two carriages, and some small ones, and four horses attached to the Chesnut street establishment—latterly three horses. She took her own carriage through to Charleston. Mrs. Kohne visited Turner's lane one or two summers—she remained in Philadelphia the winter previous to her death. She did not visit Charleston as before.

Cross-ex. The cows on the farm belonged to me; the farm was about thirty acres in extent, called Kohne's woods; know that Mr. Ravenel, of Charleston, was chief agent over everybody else; talked to him as such, and submitted to him.

The counsel for the plaintiff then called Edward James, who, being sworn, deposed that he was in the family of Mrs. Kohne to the time of her death—had always been in that family from a boy. He came to Philadelphia in 1822, and was in their employment till Mrs. Kohne's death in 1852; recollects Mr. Kohne. He had mostly resided in Philadelphia since he was 7 years old. He resided here then. Mr. Kohne visited South Carolina every season; Mrs. Kohne went South every season after his death. For some years before his death Mr. Kohne did not go South; his health was bad; he concluded he wouldn't go any more. Don't remember any expressions in regard to it—was a legatee. I resided in the Chesnut street house while Mrs. Kohne was

absent; my sister Susan Inglis also remained; the coachman never left. She had 3 or 4 servants here while she was absent; when she was here she had a coachman, myself and sister, about 4 or 5. She had wines; she used to send wines backwards and forwards to Charleston—never brought from Charleston here.

Cross-examined. Came here, I think, in 1822; continued in her employment ever since; she ceased going about a year before her death; ceased on account of her health; never heard her say, if her health would permit her, would like to go to Charleston; she had an expectation of going [to Charleston] the winter before she died; called Charleston her home; always called Charleston her home; she was a very good lady. Seen Turner's lane property; mansion-house there, which was small; 2 stories high; two rooms on floor; plain furniture. She ceased going there 3 years before her death; when there, generally absent about three weeks. Mrs. Kohne, before her death, spent about 8 months in the year at Charleston and the south; was sometimes to Schooley's mountain and Long branch about two months; was about 2 months here until sickness prevented her.

Re-examined. About November Mrs. Kohne went south; spoke of Charleston as her home when preparing to go; recollect in October, but she left here generally about the 1st of November, and came back about the last of May; can't recollect any year; she didn't speak of returning when she left; we always looked for her about the May; she was never here in April; witness could not recollect whether she was here in April, 1850, or not; always came in May, not in April; did not recollect; about 1850.

The counsel for the plaintiff then called Susan Inglis, who being sworn, deposed, that she belonged to Mrs. Kohne's family and her husband; came when she was quite young to Philadelphia; don't remember the year; had resided with the family ever since. Was with Mr. Kohne during his lifetime; he went south every winter; the last few years he couldn't go; he resided in Chesnut st., above 10th; when he could go he went to Turner's lane; for the last 2 or 3 years he lived in Chesnut street. I was with Mrs. Kohne at the time of her death. Mr. Kohne at last was not able to travel; he couldn't; he was sick. Mrs. Kohne continued to go after his death; if she could go she would go; she went always in November; sometimes would get here by 1st of June; generally about May; sometimes about 1st of April; don't recollect 1st April, 1850. The house in Chesnut st. was well furnished; some wines there and plate in the lifetime of Mrs. Kohne, and after. Witness came to Philadelphia before her brother; Mr. Kohne, was confined to the house, during the last few years of his life; wasn't able to walk.

Cross-examined. Mrs. Kohne called Charleston her home usually; frequently heard her speak of Charleston as her home; when sick at Long branch said she wanted to go home; said to Charleston; wanted to die at Charleston always, and at the time of her death her relatives were in Charleston—all in Charleston; she had no relatives here; she

had a large house in Charleston; spent the greater part of the year there; her house there was kept open until the time of her death; don't recollect anything further; sometimes she was here as early as April; don't think it was more than once; she could not go at last on account of sickness.

Re-examined. Mrs. Kohne sometimes came to Philadelphia in the month of April. The last time she mentioned Charleston as her home was at Long branch; don't recollect the date; once again she said she would like to go down south; she was a native of the south; always called that her home from before her husband's death down to her own; can only recollect these two occasions on which she called it her home.

The counsel for the plaintiff then called Frederick Brown, who being affirmed, deposed, that he has charge of Laurel Hill cemetery. Mrs. Kohne owns a lot there, which she purchased in October 11, 1837; continued owner till her death.

Cross-examined. Anybody Mrs. Kohne chose might be buried there; she could not sell the lot; she and Mr. Maxwell purchased it; there was room for three or four persons; think she buried some one there.

The counsel for the plaintiff then called Samuel Norris, who being affirmed, deposed, that he recollects Frederick Kohne. Witness resided within 50 or 60 feet of his residence, north side of Chesnut street; he came to Chesnut street house during the summer season; the house was built for him in 1819. Mrs. Kohne lived there with him; knows nothing further on the subject.

Cross-examined. I couldn't pretend to say whether he went south the last few years before his death or not. Mrs. Kohne continued it; in the summer season was in the habit of leaving for a long time; met him at Long branch myself; he travelled in his own carriage.

The counsel for the plaintiff then called Moses Kempton, who being sworn, deposed that he was one of the wardens of Christ Church. Mr. and Mrs. Kohne were buried in Christ Church burying-ground, corner 5th and Arch; I see a stone there with Frederick Kohne's name on it; was not warden at that time; recollect old stone; double size of that table; only remember name of Frederick Kohne, but do not recollect the inscription. I have not seen old account of warden's. Permits of interments were issued; issued one 20th March, 1852; she (Mrs. K.) was a member previous to separation, and therefore had a right to be buried in any part of the ground.

The counsel for the plaintiff then called Robert R. Bringhurst, who being sworn, deposed that he was sexton of Christ Church in 1829, at the time of the burial of Fred'k Kohne; was employed as sexton; got the order for his burial; he was buried in Christ Church ground, 5th and Arch; think he was buried as a member; did not own ground; was not buried in a vault, strictly speaking, but a grave bricked round, about twelve feet deep, not bricked round at that time; grave wide enough for two by the side of each other, and for four or five deep. A marble slab was on the grave after Mr. Kohne's death, soon after; his

name and the date of his birth and death inscribed on it near the top; can see part of the lettering of the old inscription covered by the present stone. Old stone wider than the present one; width of old stone 4 feet; holds two; old stone wide enough for two, 7 feet long; room enough for two; was sexton of Christ Church when he (Mr. Kohne) was buried; sexton till 1836; Mrs. Kohne went to St. James Church.

Cross-examined. The place of the inscription didn't vary from usual; it is sometimes placed in the middle, sometimes higher up; sometimes put at top for a single interment; some persons build them large, some small.

The counsel for the plaintiff then called Richard Dodd; who being sworn, deposed that he had been employed in Christ Church as grave-digger since 1825. He dug grave for body of F. Kohne; it was large enough for two beside each other. Mr. and Mrs. Kohne are both buried in same grave, corner 5th and Arch; there was a marble slab put over it soon after Mrs. Kohne's death, covering the entire top. There is an inscription on it. Her husband was buried there, and his body remained there, and hers too. There was a tomb-stone over him before her death; the inscription shorter than the one on the present stone; the old one is still there; the new one is over the old; it covers the old stone. The new inscription is word for word as to Mr. Kohne; it was put on shortly after he died, in 1829, the same week if not the same day.

The inscription on the tomb of Frederick Kohne and Eliza Kohne, in the grave-yard of Christ Church, referred to in the testimony of Richard Dodd, was then read in evidence as follows:

"Here lie the remains of

FREDERICK KOHNE, Merchant,

And ELIZA, his wife.

"He was born at Rheda, in the Kingdom of Prussia, on the 30th day of March, in the year 1757, and died in Philadelphia on the 26th day of May, 1829.

"The reputation which he left was the inheritance of honor and integrity, and the fortune that crowned his commercial enterprise was neither undeserved nor ill bestowed. She was a native of Charleston, S. C., only daughter of John de Neufville, esq., and Elizabeth Moore, his wife.

"Filial piety adorned her youth, and in mature age she reflected happiness in domestic life.

A Christian worthy of her calling;
A matron without reproach.

"After fulfilling every part assigned her lot by Providence, she ceased to live, in Philadelphia, on the 16th March, 1852, in the 85th year of her age.

"Their hearts were warmed with charity, and their memory is consecrated by many and great donations to the church and the poor."

Also the following certificate, dated March 23, 1852, of George W. Hunter, then one of the wardens of St. James Church:

PHILADELPHIA, *March* 23, 1852.

I certify that Mrs. Kohne, widow of Frederick Kohne, dec'd, having paid all pew rent due up to time of her decease, is entitled to burial in Christ Church ground, in accordance with the provision made in regard to old members when the parishes were divided.

(Signed) GEORGE W. HUNTER,
Church Warden of St. James Church.

And the counsel for the plaintiff then closed.

Whereupon the counsel for the defendant called Miss Julia Neufville, who, being sworn, deposed that she knew Mrs. Eliza Kohne; she was her (witness's) great aunt; has known her as long as she (witness) could remember. Witness resides in Charleston; came here accidentally. Mrs. Kohne had a dwelling-house and servants in Charleston, kept very much in the way of the one here; had horses and carriages. She always called Charleston her home. I always heard her express a wish to die and be buried in Charleston; only died here because she was so ill she couldn't go home; always thought of recovering sufficiently to do so. Witness's father remained with her (Mrs. K.) here during the winter, in hopes of being able to accompany her to Charleston. A report of some society was sent to her from Philadelphia, containing a list of donations, in which was one from herself; she being described as Mrs. Kohne, of Philadelphia, she had the name Philadelphia scratched out, and Charleston substituted; this was seven or eight months before her death. All of her family, or near relations, were in Charleston; it was her birth-place. Always had a pew in St. Michael's Church, Charleston; retained it until her death; it was not given up till after her death. I have often heard her, when in Philadelpnia, express a wish to be well enough to get home to Charleston. There was a garden and gardener, and plate, in Charleston.

Cross-examined. In October, '51, (she died in March, '52,) she told me she wanted to be well enough to travel home; that was at her home in Chesnut st.; she never expected to be better; don't recollect any particular time; she always spoke of it as her home; don't recollect any particular time when she did; the time of her ordering Philadelphia to be erased from list of donations, and Charleston substituted, was in Philadelphia in 1851; I was in Philadelphia; she was 84 or 5 years old; witness knew her more than 5 or 6 or 7 years; old age had considerably affected her, chiefly physicially; when very sick her mind suffered equally with her body; her voice was feeble; hearing good; she long had a defect in her sight; less competent in the last years of her life; witness was often in house in Charleston while she (Mrs. K.) was there; remember four or five servants there; Mrs. Kohne occupied her own pew in St. Michael's Church when in Charles-

ton; generally came to Charleston about the last of November, sometimes before; left about May; witness did not recollect her leaving before May; saw her every other day; witness resided five or six squares off.

Re-examined. Mrs. Kohne spent from sometime in November to sometime in May in the South; she travelled in her own carriage; took her about three weeks to go, and same to return; she spoke of wishing to die in Charleston; her mind seemed as firm as I have ever known it.

The counsel for the defendant then called Emma Farbanx, who, being sworn, deposed that she was Mrs. Kohne's servant in Charleston; was born such, as was her whole family; Mrs. Kohne's mother brought up witness's grandmother; witness was 7 years old when Mrs. Kohne married; she was told so; witness can read and write with facility; read to Mrs. Kohne; was servant at the Charleston house; came here in September, 1850, to attend to her, being sick; came with Mr. Petigru; continued with her during her sickness; Mrs. Kohne and witness used to sit together as friends, and Mrs. Kohne talked with witness, except when she had her nieces with her; she had to cease going to Charleston on account of her sickness in 1850; nothing else prevented her; it was very rarely that she did not come before the 10th or 15th of November; she never left in April till 1850; witness's mother kept her Charleston house for her; it was open to receive her guests; she kept her pew in St. Michael's Church; it can't be doubted Charleston was her home; her mind was good till the last breath; she could give directions to the last; and just before she died, Dr. Meigs was holding her hand, and I was sitting on the side of her bed; she turned to me and said: "this is death, this is death, this is death." She always called Charleston her home; used to say to her (witness's) aged grandmother, "I am so glad to get home once more." Sometimes the Society for the Advancement of Christianity would put down her name as Mrs. Kohne, of Philadelphia; Mrs. Kohne would make witness change it to Mrs. Kohne, of Charleston.

She called witness a few days before her death, and said: "Emma, if I could only live to go home, could I go by sea?" This was a few days before her death. She would come here in May, and *staid* till July; then went to Long branch and Schooley's mountain, from July till September; as soon as we came from Long branch we began to pack; never heard her speak of Philadelphia as her home; she had less plate at home than here.

Cross-examined. Mrs. Kohne gave no directions about her remains; gave no instructions about removing her husband's remains; I wrote deceased's letters for 5 or 7 years before her death; she could write pretty well; she wrote some letters; her last writing was some months before her death; writing crooked, but clear; her health only permitted her to sit up to write her name for the last 2 or 3 months. (Signature of Mrs. Kohne shown witness by Mr. Hood. Witness declares it to be Mrs. Kohne's signature.) Think I signed for her some letters—some she signed herself—to Mr. Lang; she directed witness how to answer them; some of them witness signed in her presence;

deceased was generally a great part of her time in witness's company before her death; she never forgot any thing; her memory was as good at the time of her death as when she was young; her sight was bad, but she wrote some letters.

The counsel for the defendant then called Jacob Farbaux, who being sworn, deposed that he was Emma's husband; drove Mrs. Kohne and her servants 20 years, off and on; for 18 years steady; met her at Baltimore when she was going south; witness was a Charleston servant; drove her here longer than any man she had; she had one city carriage in Philad., and one in Charleston, and a travelling carriage; the drivers met at Baltimore; she paid taxes on carriages and horses in Charleston; horses here the same; she ceased going to Charleston in 1850; I and Monnemaker came on with her in 1850 from Charleston; left on 10th June, 1850; I at that time was sick; Mrs. Kohne did not return again on account of her health; I used to get wages, and kept strict times; can read and write a little; Mrs. Kohne wrote to witness in October, for 18 years, to meet her at Baltimore in the end of October; left on the 1st of November; in spring '49 had to come back with her; witness went back to Charleston; left Charleston on the 12th or 14th of May, regularly, except in 1848, when she left later in the season; her receipts at Barnum's are dated the last of October, or 1st of November; don't know how she divided her seasons here; she always called Charleston her home; I told her my health was failed and couldn't travel, &c.; she told me in 1848 if it was not for the excessive heat she would stay in Charleston; never heard her speak of Philad'a as her home; Mr. Stephens, of Charleston, was agent till his death; then Mr. Ravenel was over every thing; the house in Charleston kept open till her death.

Cross-examined. She had a 2-story double house in Charleston; frame house. Takes 1 month to go from Baltimore to Charleston, and 1 month to return. In 1848 went to Bunkum. Staid in Charleston 5 months; never went out of Charleston except when taking a ride. She had silver enough to entertain 50 or 60 people at Charleston. Witness took plate to bank when Mrs. Kohne left Charleston. Witness did not know about wines; did not know much about domicil.

Emma Farbaux was recalled by defendant's counsel, who deposed that Mrs. Kohne's physician directed her to drink brown stout every day, for her health; this she always imported through her Charleston house, obtaining every year her supply for the whole year; so directed by her physician on account of her health; always a week or so before leaving Charleston, she sent on a barrel of brown stout to Philadelphia.

The counsel for the said defendant then called John Nonnemaker, who being sworn, deposed that he was porter of the Farmers and Mechanics' Bank; has been in this bank four years. Was in Mrs. Kohne's employment till her death; once drove her to Charleston; once to Baltimore, where witness met Farbaux; heard her speak of Charleston as her home; never heard her speak of Phila'a as such; she sent for witness and said she wanted him to go down home with her;

this was in October '49. A lady, who was present, said: "I thought this was your home." Mrs. Kohne said, "No, Charleston is my home." She couldn't go south for the last year or two before her death; was so ill she had to be carried down to her carriage in a chair.

Cross-examined. The house in Charleston was as wide and as high as the one here; if there was no house joining it, could throw a stone to the next house; the house was in Broad st., Charleston; in Charleston the servants attending were in the house; the space wasn't so evenly divided as here.

And thereupon the counsel for the said defendant read the deposition of James L. Petigru, a copy of which is hereto annexed, marked H.

And thereupon the counsel for the said defendant, further to support the issue on his part, on the 24th day of October, A. D. 1856, offered in evidence the will of Mrs. Eliza Kohne, a copy of which is hereto annexed, marked I.

And thereupon the counsel for the said defendant called Richard Vaux, who being sworn, deposed that he knew Mrs. Kohne; his mother and father were acquainted with her; knew her 30 years; know of her declarations; knew her since witness was 9 years old; has had hundreds of conversations with her; for the last 10 years of her life, no male had more to do with her; she always sent for witness in regard to her business affairs; from all these things witness never heard her say any thing but that Charleston was her home; have no more doubt that she considered Charleston her home, than that Philad'a is witness's; witness was so intimate with her that she was in the habit of calling witness "child;" for instance, she said to witness once, "Child, you must get me another horse and carriage." When away from Charleston, she always wanted to get back.

Cross-examined. Witness knew Frederick Kohne; he resided in Philad'a before his death; he was a cripple; don't know when he built the large house in Philad'a; recollect his coming and going; recollect Mr. and Mrs. Kohne residing in Chestnut st. Rob't Maxwell, John Bohlen and witness's father were the executors of his (F. Kohne's) will; Mrs. Kohne also; Maxwell was an Englishman. Mrs. Kohne went to Charleston for the cold weather; she wouldn't be here more than six weeks in any one year; never heard her say she was going to Charleston to reside permanently; generally expected her back. Can safely say Mrs. Kohne's affections were all in Charleston, for the last 7 years of her life. Witness did not recollect her desiring her remains to be removed to Charleston, nor her husband's; never heard her give instructions as to her death. Mrs. Kohne had a place on Turner's lane; she wanted witness to go and live there; said she wanted the place kept up for Mr. Kohne's sake; had no interest in it herself. In the last years of her life only, rode out there. She talked more anxiously of Schooley's mountain than of Philad'a; she made arrangements as soon as she got here to go to Schooley's mountain; she was a very particular woman, and had a very clear mind. Don't remember how long Mr. Lang died after her death; he was clerk of Mr.

Bohlen; he was a most exemplary man. Was always consulted by Mrs. Kohne, and was faithful to her and to his employer. Never considered he knew anything but money and business. Mrs. Kohne sent witness a law paper of Mr. Sergeant's to examine. Witness never heard her call Charleston in so many words her home, but have no doubt that she considered it as her home, from the conversations with her and what I heard.

And thereupon the counsel for the said defendant, further to sustain the said issue on his part, read the deposition of Sarah H. Hazlehurst, Julianna Hazlehurst, and Mary Hazlehurst, a copy of which is hereto annexed, marked J.

And thereupon the counsel for the said defendant recalled Emma Farbaux, who deposed that witness visited a grave-yard in Charleston with Mrs. Kohne. Her sister-in-law, Mrs. E. Neufville, had died in November, 1847, in Charleston; Mrs. Kohne said to witness that she must go with her to see her sister-in-law's grave; had never seen it before. Mrs. Kohne said, "here's a place for Ben and myself." Ben was her nephew, the father of Miss Julia, who was examined yesterday. Peter Farbaux is foolish; Margaret Ann, deaf.

And thereupon the counsel for the said defendant, further to support the said issue on his part, called Samuel Dickson, who, being sworn, deposed that he was Mrs. Kohne's footman from 1844 till her death. Saw her about one day before her death. Saw her every day. She ceased going south a little over a year before her death, because she couldn't get there. She always said Charleston was her home.

Cross-examined. Witness was footman in Philad'a.

Re-examined. Mrs. Kohne was never in Philadelphia more than 5 or 6 weeks in a year; 2 months away to Schooley's mountain; about 6 weeks in Philad'a, then went to Charleston; 7 months away from Philad'a at the south.

And thereupon the counsel for the defendant then closed.

Whereupon the counsel for the plaintiff recalled Andrew Patton, who deposed that when first employed by Mrs Kohne, her mental faculties were strong. This condition did not continue till her death. Her memory was gone for about 5 years before her death. She had a great many errands for witness to do. Would send for witness, and when he would go up she had forgotten them all. This was for about 2 years before her death. She didn't improve; didn't come often to Turner's lane latterly. Witness had daily communications with her while she was in Philadelphia during the summer season. Have known her to reside about 6 weeks at a time at Turner's lane; sometimes longer, sometimes shorter.

The counsel for the said plaintiff then gave in evidence the record of a certain deed, recorded in the office for recording deeds, &c., in Philad'a, in deed-book G S, No. 8, p. 94, dated August 14, 1839, being for the conveyance of certain real estate from Daniel Thorn and others to Eliza Kohne; the commencement whereof was as follows:

This indenture, made the 14th day of August, A. D. 1839, between

Daniel Thorn, of the city of Philadelphia, Henry E. Carpenter and Eliza A., his wife, of the one part, and Eliza Kohne, of the same city, widow, of the other part.

Circuit Court of U. S. E. D. Pa.

THE COMMONWEALTH OF PENNSYLVANIA
vs.
WILLIAM RAVENEL.

After the testimony in this case had been given, and the counsel had addressed the jury, no special instructions having been requested by the counsel on either side, the court charged the jury in substance as follows:

That a question of domicil was one of mixed law and fact. That it was for the court to instruct the jury what constituted domicil, and for the jury to apply the principles of law laid down by the court to the facts as found by them, and thus render a true verdict on the issue they were sworn to try; that the jury had no right to disregard the law as stated by the court, and the court had no right to dictate to them on the facts which they were bound to find on their own responsibility.

The court then proceeded to define the meaning of the word domicil, and the principles of law on the subject, reading from their charge on the Aspden case such parts of it as had a proper application to the general question and were applicable to this case—that charge is found in White vs. Brown, 1 Wallace, jr. In application of these general principles of the law to this case, the court stated that it had been affirmed that the domicil of Frederick Kohne was Pennsylvania, because, for three or four years before his death, he had been unable to return to his house in Charleston, had died and was buried in Philad'a, and called himself, in his will, "Frederick Kohne, of the city of Philadelphia." Under these circumstances, it appears his executors did not see fit to dispute his domicil, but submitted to pay the collateral inheritance tax; that notwithstanding all this, it was not a very clear case that his domicil was in Pennsylvania, had his executors seen fit to dispute it. But for the purposes of this case, we should assume that fact: that, from the legal unity of husband and wife, her domicil was necessarily his while the marriage existed; after his death, she was free to choose her own domicil. If the jury find, that after his death she returned to her former domicil in Charleston, took possession of the house and servants devised to her; lived in that house six or seven months of every year, calling it her home, spending only a few weeks in the spring and fall in her house here, and the remainder of the summer at watering-places; coming north in the summer for the sake of her health, always intending to return to her house in Charleston; that she was hindered returning the last time from sickness; if she consulted counsel how she might avoid giving any pretence to the tax-gatherers of Pennsylvania to treat her as domiciled here; if she carefully denied at all times her citizenship in Philadelphia, even to erasing

it from printed lists of her church donations, as the assertion of a falsehood; if she refused to have some of her furniture removed here, for fear such a fact would be seized upon after her death for the purpose of asserting her domicil here; if she called herself, in her will, "of Charleston;" if, when absent from that place, she always spoke of returning to it as her home, and did return to it as such, till hindered by sickness;—if the jury believed this evidence of defendant's witnesses, testimony which has not been contradicted or denied, it would be absurd to say her domicil was not where she asserted it to be, to wit, in the city of Charleston. It is true, the mere speaking of a place as home, in the cant language of the Canadians and other provincials, without any act showing an intention of returning to it, would amount to nothing. But if the acts and the language concur, as proved by these witnesses in this case, it would be a denial to the deceased of the right to choose her own domicil, not to allow her acts and declarations, continued for many years, to be conclusive of the fact.

The fact that she submitted to illegal exactions of tax gatherers here, rather than be annoyed with litigation, should not be suffered to weigh against the acts and declarations of twenty years of her life. Tax gatherers may impose on old ladies, but they cannot change their domicil for them against their will; nor is it any reason for an illegal exaction against the estate of the deceased, that the tax gatherers of Pennsylvania have heretofore wronged her with impunity.

I had hoped that the counsel for the State, after hearing the evidence for the defendant, would not have wasted the time of the court in what must be a fruitless contest, if the jury believe the testimony of defendant. It was on that supposition that the court made a suggestion before the argument commenced, of which complaint has been made. Counsel have no doubt acted on their convictions of the truth, and of their duty to their client. But after patient hearing, I still doubt whether their client had a right to exact such a labor from them under the circumstances.

(Signed) R. C. GRIER, [SEAL.]

Whereupon the counsel for the plaintiff excepted to the said charge, and filed the following exceptions in writing:

C. C. of U. S., April sessions, 1855, No. 3.

THE COMMONWEALTH OF PENNSYLVANIA
vs.
WILLIAM RAVENEL, ex'r of the last will of Eliza Kohne, dec'd.

The counsel for the Commonwealth respectfully except to the charge of the learned judge, as follows:

1. Because he charged the jury that after Mrs. Kohne had declared Charleston to be her domicil, and had gone there after her husband's death, and took possession of her husband's mansion there and occupied it, it was absurd to say that she had not selected that as her domicil.

2. Because his honor charged the jury that the payment of taxes in Penn'a by Mrs. Kohne on her South Carolina stocks, etc., ought not to weigh with the jury, because she was a rich woman, and chose to pay them rather than have a lawsuit.

3. Because his honor charged the jury that if the State of Pennsylvania had wrongfully received taxes from Mrs. Kohne in her lifetime, it is no reason why her estate should be further wronged by this claim.

4. Because his honor, in his charge, took the fact of domicil from the jury.

(Signed) THOMAS E. FRANKLIN,
(") SAMUEL HOOD,
For the Com'th of Pa.

Oct. 24, 1856.

A.

In the matter of the collateral inheritance tax on the estate of Eliza Kohne.

PHILADELPHIA, *July* 19*th*, 1854.

The register decrees, that there is due the Commonwealth of Pennsylvania from the estate of Eliza Kohne, nine thousand three hundred seventeen dollars and fifty-five cents, collateral inheritance tax on the real and personal estate of the said decedent.

B.

In the matter of the claim of the Com'th of Pa., upon est. of Eliza Kohne, dec'd, for col. inh. tax.

It is agreed between the pl'ff, represented by R. K. Scott, and the def't, the executor of the decedent, represented by B. Gerhard, that a re-appraisement of the estate of the said decedent shall be made; and that an amicable action shall be entered in the U. S. court for the eastern district of Penn'a to try the question of the liability of said estate to said tax. It is further agreed that Theo. T. Deringer and George Moore shall be the parties selected to make the said re-appraisement, and that the expense of the said re-appraisement shall be borne by the estate of the said decedent.

This agreement not to be binding upon the Com'th or the def't, unless approved by the attorney gen'l of the Com'th.

R. K. SCOTT,
Att'y for the Com'th.

B. GERHARD,
For W. RAVENEL, *Ex'r.*

PHILAD'A, *March* 30, 1855.

Mem. It is further understood and agreed that the re-appraisement may be made at once, but without in any way affecting the present decree of the register entered in this matter.

R. K. SCOTT,
Att'y for Com'th.
B. GERHARD,
For W. RAVENEL, *Ex'r.*

I concur in the above agreement.

THOS. E. FRANKLIN,
Att'y Gen'l.

April 3, 1855.

CITY AND COUNTY OF PHILADELPHIA, *ss.*

Personally came before me, register of wills in and for the said city and county, Theo. T. Deringer and Geo. H. Moore, who, upon their solemn affirmation, did say, that at the request of the B. Gerhard, esq., att'y for W. Ravenel, executor, (R. K. Scott, att'y for Com'th, consenting,) they did well and truly, and without prejudice or partiality, value and appraise the goods, chattels, and credits which were of Mrs. Eliza Kohne, deceased, "and in all respects perform their duties as appraisers, to the best of their skill and judgment."

THEO. T. DERINGER,
GEO. H. MOORE.

Affirmed and subscribed this 2d day April, 1855, before me.
WM. BOWES, *Register.*

Inventory and appraisement of the goods and chattels, rights and credits which were of Mrs. Eliza Kohne, late of the city of Philadelphia, taken and made in conformity with the above deposition, for the ascertainment of the collateral inheritance tax.

April 2d, 1855, this appraisement sanctioned by William Ravenel, executor to Eliza Kohne.

$28,000 6 per cent. Kentucky loan - - - -	$28,000 00
100,000 6 per cent. South Carolina - - - -	90,000 00
1,000 6 per cent. city of Cincinnati - - -	900 00
3,964 39 3 per cent. South Carolina - - -	1,982 19
McPherson's mortgage, (par 6,000) - - - -	5,400 00
400 shares Planters and Mechanics' Bank stock -	10,000 00
372 shares Santee Canal stock - - - -	1,488 00
5,287 32 cash loaned on call - - - - -	5,287 32
	$143,057 51

From which is to be deducted the—		
Commissions of executor - - -	$7,152 83	
Expenses in suit of F. Kohne's estate in U. S. circuit court, Phila., and Supreme Court, Washington: att'y fees, court charges, &c. - - - -	10,000 00	
Contingent expenses, viz:		
Court charges, trav. expenses, and atty's fees in prosecuting the suit for col. inh. tax in U. S. circuit court, Phil., and Supreme Ct., Wash'n - - -	3,000 00	
		$20,051 83
		$122,904 63

THEO. T. DERINGER,
GEO. H. MOORE,
Appraisers.

CITY AND COUNTY OF PHILADELPHIA, *ss.*

REGISTER'S OFFICE, *April* 2, 1855.

I hereby certify the foregoing writing to be a full, true, and correct copy of the inventory and appraisement of the estate of Mrs. Eliza Kohne, dec'd, made by agreement of council, as the same is filed in this office.

Witness my hand and seal of office, the date above written.

SAM'L LOYD,
Dep. Register.

Endorsed: Estate of Mrs. Eliza Kohne, dec'd. B.—Original filed April 2, 1855.—S. L.

C.

Be it remembered, that I, Frederick Kohne, of the city of Philadelphia, esquire, being of sound mind, memory, and understanding, do hereby make my last will and testament, in manner following, that is to say:

First. I will and direct that all my just debts and funeral expenses shall be duly paid and satisfied.

Item. I do give and bequeath unto my beloved wife Eliza, absolutely, all my furniture, horses, carriages, and all articles and things purchased and provided by me for family use, (except my plate,) of all which, I direct that no inventory or appraisement be taken or made.

Item. I give and devise to my said wife all my messuages, lots of ground, lands, tenements, and real estate, whatsoever, and wheresoever the same may be situate, with the appurtenances, excepting my house and store in Charleston, South Carolina, on east Bay street, at present occupied by Lewis Rapman, esq., and also another store on said east Bay street, the corner of Chisholm's wharf,

to hold to her, my said wife, for and during all the term of her natural life, she supporting the same in good order and repair, and paying all taxes to be charged and assessed on the same for and during the aforesaid term; and I likewise give to my said wife all my plate for and during all the term of her natural life; I likewise give to my said wife my pew in St. Michael's, church, Charleston, and in St. James church, Philadelphia; and after my said wife's decease, I give the said pews to the said churches respectively. Moreover, I give to her, my said wife, for and during all the term of her natural life, an annuity or yearly sum of ten thousand dollars, say D. 10,000, lawful money of the United States of America, payable quarter yearly, commencing from the day of my decease. And I do hereby authorize and empower her, my said wife, by her last will and testament, or by any writing in the nature thereof, or by any writing under her hand, attested by two or more creditable subscribing witnesses, to dispose of the sum of ten thousand dollars, say D. 10,000, to be paid out of my estate, which I hereby direct shall be paid accordingly, by my executors, immediately after the decease of my said wife, to such person or persons, and in such parts and proportions as she may have so disposed of the same, or directed the disposal thereof in manner as aforesaid. And I likewise authorize and empower my said wife, by deed or will, to dispose of my houses, buildings, and lots of ground, on Broad st. and Short st., situate in Charleston aforesaid, to such religious institution or institutions in fee simple, and for such purposes as she may see fit.

Item. I give and devise to the City Council of Charleston, South Carolina, all that my house and store aforesaid in Charleston, on East Bay street, at present occupied by Lewis Rapman, esquire, and also another store on the said East Bay street, the corner of Chisholm's wharf, to hold to them, the City Council of Charleston, their successors and assigns, for the sole and only use, benefit and behoof, of the Orphan House in Charleston aforesaid.

Item. I give and bequeath unto my nephew, Moritz William Fontaine, residing at Rehda, in Westphalia, in Germany, the interest of all my Ohio six per cent. canal loan, accruing for and during all the term of his life, to be paid to him when and as the same shall be received by my executors, excepting thereout the annual sum of three thousand dollars thereof yearly, and every year, until the youngest child being of my said nephew shall arrive at the age of twenty-one years, which annual sums, with all accumulation of interest arising from that source, be yearly invested in the purchase of the like stocks, or in some of the public stocks or funds of the United States, or of the State of Pennsylvania, or any other State or States of the United States, or of the city of Philadelphia, bearing interest, as they, my said executors, may see fit, which annual sums, and all accumulation thereof, I direct shall, on the youngest child being of my said nephew arriving at full age, be equally divided to and amongst the children of my said nephew then living, and the issue of such of them as may be then dead, in equal parts, such issue to be entitled equally among them-

selves to such part and share only as their deceased parent would have taken if living; and immediately upon the decease of my said nephew, and upon his youngest child arriving at full age, I direct my said executors to assign all the said Ohio six pr. cent. canal loan to all the children of my said nephew who may be then living, and the issue of them that may be then dead, to be equally divided between them, part and share alike, such issue taking and among themselves equally dividing such part and share only as their deceased parent would have taken if living, and at the same time pay and account with them for their respective parts of the interest thereof, and all accumulation of the same; and I would recommend to my said nephew his coming to America, and settling in the State of Ohio.

Item. I give to my niece, ——— Fontaine, now married to a person of the name of Kramper, one annuity, or yearly sum, of fifty pounds sterling, money of Great Britain, commencing from the day of my decease, to be paid to her yearly for and during all the term of her natural life.

Item. I give to my friend James Thomas, esquire, residing in Charleston, one annuity, or yearly sum, of four hundred dollars, lawful money of the United States of America, commencing from the day of my decease, to be paid to him yearly for and during the term of his natural life.

Item. I give and bequeath to J. H. Lange, of the city of Philadelphia, one annuity, or yearly sum, of two hundred dollars, commencing from the day of my decease, to be paid to him yearly for and during all the term of his natural life.

Item. I give to my former servant, William Hazard, residing at Charleston, the sum of twenty dollars per month, commencing from the day of my decease, and to be paid to him for and during the term of his natural life.

Item. I give to my old servant, Ann Wilson, residing at Charleston, three dollars weekly, commencing from the day of my decease, and to be paid to her for and during the term of her natural life.

Item. I give to my servant, Lucy Ann Inglis, the sum of one hundred dollars, and to my servant Susan Inglis, her sister, the sum of one hundred dollars, to be paid to them immediately after my decease; and if they continue their faithful services to my wife during her life, in that case, but not otherwise, I give to the said Lucy Ann Inglis one annuity of three hundred dollars, commencing from the day of the decease of my said wife, to be paid to her yearly for and during all the remainder of the term of the said Lucy's natural life; and to her sister, Susan Inglis, one annuity, or yearly sum, of two hundred dollars, commencing from the day of the decease of my said wife, to be paid to her yearly for and during all the remainder of the term of the natural life of her, the said Susan.

Item. I give to my servant Emma Lewis, living at Charleston, the sum of one hundred dollars; to my servant John Nelson, living in Charleston, the half-brother of the said Emma Lewis, the sum of fifty dollars; and to my servant Edward James, the half-brother of the

said Lucy Ann and Susan Inglis, now living with me, the sum of fifty dollars. Which legacies I desire to be paid immediately after my decease.

Item. I give and bequeath the following legacies, to be paid immediately after the decease of my said wife, viz: To the Theological Seminary of the Protestant Episcopal church in the United States of America, established near Greenwich, in the State of New York, the sum of one hundred thousand dollars, say D. 100,000.

To Thomas Hale, of the city of Philadelphia, the sum of ten thousand dollars, in trust, to be paid by him to the treasurer, for the time being, for the Domestic and Foreign Missionary Society of the Protestant Episcopal church in the United States of America, to be applied by the said society exclusively to their domestic concerns and purposes.

To the Right Reverend Nathaniel Bowen, of Charleston, the sum of five thousand dollars, in trust, to be paid over by him to the treasurer, for the time being, of the Society of the Protestant Episcopal church, for the advancement of Christianity in South Carolina.

To Thomas Lowndes, of Charleston, the sum of five thousand dollars, in trust, to be paid by him to the treasurer, for the time being, of the Ladies' Benevolent Society in Charleston, South Carolina, to be applied to the objects of that society.

To Elias Horry, of Charleston aforesaid, the sum of ten thousand dollars, in trust, to be paid by him to the treasurer, for the time being, of the Shinas's Dispensary, in Charleston, for the uses of that institution.

To the said Elias Horry the sum of five thousand dollars, in trust, to be paid by him to the treasurer, for the time being, of the Bishops' fund, in South Carolina, for the uses of that fund.

To the said Thomas Hale the sum of three thousand dollars, in trust, to be paid by him to the treasurer, for the time being, of the Female Episcopal Benevolent Society of St. James church, in the city of Philadelphia, for the uses of the poor of that church.

To the Philad. Dispensary, the sum of ten thousand dollars.

To the Female Association of Philadelphia, the sum of five thousand dollars.

To the Orphan Society of Philadelphia, the sum of sixty thousand dollars, say D. 60,000.

To the said Thomas Hale five thousand dollars, in trust, to be paid by him to the treasurer or treasurers, for the time being, of the Infant School established in Philadelphia, to be applied to the objects of these schools.

To the said Thomas Lowndes the sum of ten thousand dollars, in trust, to be paid by him to the treasurer, for the time being, of the Protestant Episcopal Domestic Missionary Society, which now employs, as their missionary, the Reverend Edward Phillips at the free church in Charleston, South Carolina, called St. Stephen's Chapel, to be applied towards supporting their missionary who shall officiate in that church.

To the said Elias Horry the sum of five thousand dollars, in trust,

to be paid by him to the treasurer, for the time being, of the Mariners' church in Charleston, South Carolina, for the use of the said church.

To the House of Refuge in Pennsylvania the sum of one hundred thousand dollars, say D. 100,000.

To the Society of the Protestant Episcopal Church for the Advancement of Christianity in Pennsylvania the sum of five thousand dollars.

To the Pennsylvania Institution for the Deaf and Dumb the sum of twenty thousand dollars, say D. 20,000.

To John Read, Thomas Hale, and James S. Smith, of the city of Philadelphia, the sum of five thousand dollars, in trust, to be paid by them to the treasurer, for the time being, of the fund for the support of the bishop of the Protestant Episcopal church in Pennsylvania, who shall have the city of Philadelphia within his diocese ; and to the said Thomas Hale the sum of twenty thousand dollars, in trust, to be paid by him to the treasurer, for the time being, of the General Episcopal Sunday School Union, of which Floyd Smith, esq., is now treasurer.

And forasmuch as there will be a surplus income of my estate, beyond what will be necessary to pay my said wife's annuity, and the other annuities, I do therefore direct my said executors to invest the said surplus income, and all accumulation of interest arising from that source yearly, for and during all the term of the natural life of my said wife, in the purchase of such stocks or securities of the United States or the State of Pennsylvania, or of any other State or States of the United States, or of the city of Philadelphia, bearing an interest, as they, in their discretion, may see fit ; and from and after the decease of my said wife, then all the rest, residue and remainder of all my estate, including the fund which shall have arisen from the said surplus income aforesaid, after payment of the legacies hereinbefore directed to be paid after the decease of my said wife, and after providing for the payment of the annuities hereinfore given of those annuitants who may then still be living, I authorize and empower my executors, or the survivor of them, after the decease of my said wife, to dispose of the same for the use of such charitable institutions in Pennsylvania and South Carolina as they or he may deem most beneficial to mankind, and so that part of the colored population in each of the said States of Pennsylvania and South Carolina shall partake of the benefit thereof; and I do hereby further authorize and empower them, or the survivors or survivor of them, after my said wife's decease, for the better and more easy disposing of my said residuary estate as aforesaid, to sell and to make good and sufficient deeds and conveyances of my real estate not hereinbefore specifically disposed of to the purchaser or purchasers thereof, his, her, or their heir and assigns, in fee simple. And it is my mind and will that if any of the stocks or securities which I now hold, or belonging to my estate, shall be paid off, then and in such case I direct my said executors, or the survivors or survivor of them, forthwith to reinvest the moneys which may so come to their hands in the purchase of any funds, or stocks, or securities of the United States, or the State of Pennsylvania, or any other State

or States of the United States, or of the city of Philadelphia, bearing an interest, as they, in their discretion, may see fit.

And I do hereby nominate and appoint my said wife, and my respected friends, John Bohlen and Robert Vaux, of the city of Philadelphia, and my respected friend Robert Maxwell, *of* formerly of Charleston, aforesaid, esquire, executors of this my last will and testament.

Lastly, I do hereby revoke all wills and testaments by me at any time heretofore made and published, and declare this only to be and contain my last will and testament.

In witness whereof, I have hereunto set my hand and seal, the twenty-eighth day of April, in the year of our Lord one thousand eight hundred and twenty-nine.

FREDERICK KOHNE, [SEAL.]

Signed, sealed, published, and declared by the said Frederick Kohne, for and as his last will and testament, in the presence of us, who, at *at* his request and in his presence and in the presence of each other, have hereunto subscribed our names as witnesses to the execution thereof. Note.— The words "and for such purposes," between the 34th *or* 35th lines in the first page, first interlined.

MANUEL EYRE,
JOHN COOK, aff'd June 3d.
EDWARD TOWNSEND, aff'd June 3d.

PHILADELPHIA, *June 3d*, 1829.

Then personally appeared John Cook and Edward Townsend, two of the subscribing witnesses to the foregoing will, who, being duly affirmed, according to law, did declare and say, that they were present, and did see and hear Frederick Kohne, the testator in the said will named, sign, seal, publish and declare the same as and for his last will and testament, and that at the doing thereof he was of sound mind, memory and understanding, to the best of their knowledge and belief.

Coram

JOHN B. SEWALL, *Dep. Reg'r.*

PHILADELPHIA, *June 4th*, 1829.

Then personally appeared Manuel Eyre, the other subscribing witness to the aforegoing will, who being duly affirmed according to law, did declare and say, that they were present, and did see and hear Frederick Kohne, the testator in the said will named, sign, seal, publish and declare the same as and for his last will and testament; and that at the doing thereof he was of sound mind, memory, and understanding, to the best of his knowledge and belief.

Coram

JOHN B. SEWALL,
Dep. Reg'r.

Eliza Kohne, widow, sworn, and John Bohlen and Roberts Vaux, two of the executors, affirmed the same day, and that they would diligently regard and well and truly comply with the provisions of the law relating to collateral inheritance.

October 8, 1830. Robert Maxwell, the other executor, sworn, and that he would diligently and faithfully regard and well and truly comply with the *law* provisions of the law relating to collateral inheritance.

A.

In the matter of the collateral inheritance tax on the estate of Eliza Kohne.

PHILADELPHIA, *July 19th*, 1854.

The register decrees that there is due to the Commonwealth of Pennsylvania from the estate of Eliza Kohne, nine thousand three hundred seventeen dollars and fifty-five cents, collateral inheritance tax on the real and personal estate of the said decedent.

CITY AND COUNTY OF PHILADELPHIA, *ss.*

REGISTER'S OFFICE, *October 9th*, 1856.

I certify the foregoing writing to be a true copy of the last will and testament of Frederick Kohne, deceased, together with the probate thereof, and the decree of the register of wills in relation to the collateral inheritance tax.

Witness my hand and seal of office, the date above written.

JOS. C. MOLLOY,
Dep. Register.

The above endorsed: "Will of Frederick Kohne, dec'd. (Copy.) (C. & A.)."

D.

Inventory and appraisement of the personal estate, late of Frederick Kohne, of the city of Philadelphia, esquire, deceased, taken on the 20th day of June, A. D. 1829, to wit:

Plate appraised June 30, 1829—Total, $1,796 07.

NOTE.—The testator bequeathed all his furniture, horses, carriages, and all articles and things purchased and provided by him for family use, (excepting his plate,) to his wife, Eliza Kohne; and directed that no inventory or appraisement of the same should be taken or made of them. They have been accordingly delivered to the widow, without any such inventory or appraisement. The plate was bequeathed to his wife, during life, and has been likewise delivered to her.

Ohio Canal Stock.

Certificate No.	466,	New York,	dated	30th Jan'y, 1828,	for.....	$9,000 00
Do.	443,	do.	do.	12th	do.	4,200 00
Do.	442,	do.	do.	do.	do.	10,000 00
Do.	441,	do.	do.	do.	do.	10,000 00
Do.	440,	do.	do.	do.	do.	6,800 00
Do.	439,	do.	do.	do.	do.	10,000 00
Do.	699,	do.	do.	19th May,	1828, for.....	5,000 00
Do.	698,	do.	do.	do.	do.	5,000 00
Do.	697,	do.	do.	do.	do.	5,000 00
Do.	701,	do.	do.	do.	do.	8,000 00
Do.	700,	do.	do.	do.	do.	7,000 00
Do.	1163,	do.	do.	21st Jan'y,	1829, for.....	10,000 00
Do.	1164,	do.	do.	do.	do.	10,000 00
Do.	1165,	do.	do.	do.	do.	10,000 00
Do.	1166,	do.	do.	do.	do.	10,000 00
Do.	1167,	do.	do.	do.	do.	10,000 00
Do.	1168,	do.	do.	24th	do.	10,000 00
Do.	1169,	do.	do.	21st	do.	10,000 00
						151,000 00

Amount of stock brought forward from page 51 - $151,000 00

Certificate No. 30, Chesapeake & Delaware Canal loan, dated 16th April, 1827, for - - - - - - $50,000 00

Certificate No. 17, Schuylkill Navigation Comp'y loan, dated 25th October, 1825 - - - - - - 9,000 00

Certificate No. 1684, United States 3 p. c. stock, dated 14th April, 1826, for - - - - - - - 2,858 09

United States Bank Stock, to wit:

Certificate No.	14,024,	dated	24 July,	1820,	for 50	shares.....	$5,000 00
Do.	6,744,	"	12 June,	1818,	10	"	1,000 00
Do.	26,233,	"	6 "	1825,	230	"	23,000 00
Do.	23,990,	"	8 "	1824,	137	"	13,700 00
Do.	2,755,	"	12 Nov.,	1817,	50	"	5,000 00
Do.	6,740,	"	12 June,	1818,	20	"	2,000 00
Do.	6,742,	"	" "	"	15	"	1,500 00
Do.	6,743,	"	" "	"	15	"	1,500 00
Do.	13,843,	"	5 July,	1820,	3	"	300 00
							53,000 00

20 shares Ridge Road Turnpike Comp'y stock No. 434 to 454 inclusive, dated 12 March, 1812, *a* $50 - - - - - - - $1,000

10 shares Chesapeake & Delaware Canal Comp'y, *a* $200 - - - - - 2,000

$3,000 00

Money in the hands of Prime, Ward, King & Co., as per their acc't current of the 6th of June, 1829 -	$31,452 03
Due by Mr. Francis Moore on a note of hand - -	300 00
	$300,610 12

PHILADELPHIA, *June 30th*, 1829.

Sworn.
(Signed) JOHN BOHLEN, June 30th, 1829.
ROBERTS VAUX,
JOHN GUYER.

Additional inventory to the inventory rendered to the probate of wills, on the 20th day of June, 1829, of the personal estate of the late Frederick Kohne, of Philadelphia, deceased.

Bonds and Mortgages in Charleston, S. C.

Milward Pogson, (for which F. Dawson is responsible,)	$10,000 00
R. W. Roper - - - - - - - - -	1,500 00
Benjamin Allston - - - - - - - -	15,000 00
T. S. Allston, C. C. P. Allston, and W. Allston - -	11,000 00
De E. Hager - - - - - - - - -	6,000 00
Thomas Lownder - - - - - - - -	14,000 00
James Hamilton, junior - - - - - -	4,000 00
G. H. Manigault and N. Hayward - - - -	24,000 00
George Chisholm - - - - - - -	26,416 34
J. E. McPheron - - - - - - - -	5,000 00
John Parker, junior - - - - - - -	10,000 00
	126,916 34

Stocks in Charleston, S. C.

South Carolina 6 per cent. stocks - - - -	$130,000 00
" 3 " " - - - -	3,964 39

31 shares Santee canal stock, original cost $600 ; present value nominal.

The bonds and mortgages preceding, and also the certificates of the preceding stock, are in the hands of Mr. James Thomas, of Charleston, S. C., where they were placed by the testator in his lifetime ; and all the said bonds and mortgages and stock being within a foreign jurisdiction, the executors do not acknowledge themselves further responsible for them than as they may hereafter come to their hands, nor admit their liability for the collateral inheritance tax.

The object of this additional inventory is to present, with that

already filed, a view of all the testator's personal assets wherever situate, as far as the same are now known to the executors.

(Signed) JOHN BOHLEN,
ROBERTS VAUX.
J. B. SEWALL, *Dep. Reg.*,

Philadelphia, July 7, 1831.

Endorsed: Estate of Frederick Kohne, deceased.

D.

Inventory and appraisement of personal property. (Copy.)

E.

Abstracts of and extracts from the accounts of the executors of the will of Frederick Kohne, deceased. Dr. The account of Eliza Kohne, John Bohlen, Roberts Vaux, and Robert Maxwell, executors of the last will and testament of Frederick Kohne, late of the city of Philadelphia, gent'n, deceased, Cr.

(Settlement July 8, 1831.)

Among the items on the creditor side are the following, viz:

May 26, 1830.—Legacy of interest on Ohio canal loan to Moritz William Fontaine, Rheda, on $151,000 from 26 May, 1829, to 1 July, 1829, is 1 month, 4 days		$855 67
$151,000 from 1 July, 1829, to 1 January, 1830, is 6 months		4,530 00
		5,385 67
Off proportion of $3,000 to be invested yearly out of it, being from 26 May, 1829, to 1 January, 1830, 7 months, 4 days		1,783 33
		3,602 34
Less 2½ per cent. Pennsylvania State tax		90 06
		3,512 28
1830, July 19.—Legacy of interest to Moritz Wilhelm Fontaine on $151,000, 1 January, 1830, to 1 July, 1830, 6 months		$4,530 00
Off ⅓ of $3,000 to be invested yearly out of it		1,500 00
		3,030,00
Less 2½ per cent. Pennsylvania State tax		75 75
		2,954 25

NOTE.—Items similar to this may be found to occur twice in all of the accounts filed except the 14th, in which it occurs once.

1831, May 26.—Annuity to Ann Wilson, in Charleston, as per J. Thomas's account No. 101, 26 weeks from 26 November, 1830, to 26 May, 1831, at $3 per week - - - - - - $78 00
Less 2½ per cent. Pennsylvania State tax - - - - 1 95

76 05

Annuity to Wm. Harzard, in Charleston, as per J. Thomas's account No. 101, 6 months, from 26 November, 1830, to 26 May, 1831, at $20 per month - - - - - - - - - $120 00
Less 2½ per cent. Pennsylvania State tax - - - 3 00

117 00

Annuity to Helen Trimper, £50 sterling at 9½ per ct. - $244 33
Less 2½ per cent. Pennsylvania State tax - - - 6 08

237 25

Annuity to James Thomas, in Charleston, as per receipt N. 103, as pr. his acct. N. 101 - - - - - - - - $400 00
Less 2½ pr. ct. Pennsylvania State tax - - - - 10 00

390 00

The executors, being duly sworn and affirmed, say that this account as it stands stated and settled, both as to the charge and discharge thereof, is just and true, to the best of their knowledge and belief.

(Signed) JOHN BOHLEN,
ROBERTS VAUX,
ELIZA KOHNE,
ROBERT MAXWELL.

Sworn and affirmed before me, by John Bohlen and Roberts Vaux. July 8th, 1831.

JOHN B. SEWALL,
Dep. Reg'r.

The 2d account, filed July 9, 1832, is signed, sworn to or affirmed by all of the ex'rs.

The 3d, 4th, 5th accounts are each of them signed, sworn to or affirmed by all the executors before

J. B. SEWALL,
Dep. Reg'r.

The 6th account, filed June 9, 1836, is signed and sworn to by the surviving executors, Eliza Kohne, John Bohlen and Robert Maxwell, before

J. B. SEWALL,
Dep. Reg'r.

Extract from 7th Account.

Feb. 1, 1837.—By paid to Geo. W. South, county treasurer, collateral inh. tax since 1829, up to June 9, 1836, as pr. report of the auditor of 30th January—$1,199 48.

This account, filed July 1, 1837, is signed and sworn to by Eliza Kohne, before C. T. Jones, dep'y reg'r, and by John Bohlen, before John Gest, register, they being the only surviving executors.

Copy of receipts at foot of 7th Account.

COUNTY TREASURER'S OFFICE,
Philad'a, Feb'y, 1837.

Received of Eliza Kohne and John Bohlen, executors to the estate of Frederick Kohne, deceased, eleven hundred ninety-nine dollars forty-eight cents, being two and one half pr. cent collateral inheritance tax on $47,979 20, personal estate of the said deceased.

GEORGE W. SOUTH,
County Treasurer.

$1,199 48.

(*Copy.*)

COUNTY TREASURER'S OFFICE,
Philad., Feb'y, 1 1837.

Received of Eliza Kohne and John Bohlen, executors to the estate of Frederick Kohne, one hundred seventy-two dollars eighty-four cents, being two and one half pr. cent. collateral inheritance tax on $6,913 60 cts. personal estate of the said deceased.

(Signed) GEO. W. SOUTH,
County Treasurer.

$172 84.

Extract from 8th Account.

1838, May 26th.—By paid Geo. W. South, county treasurer, for collateral inheritance tax, collected from 20 June, 1837, up till now—$180 87.

This account, filed June 7th, 1838, is signed and sworn to by the surviving executors, Eliza Kohne and John Bohlen, before C. T. Jones, dep. reg'r.

Copy of receipt at foot of 8th Account.

COUNTY TREASURER'S OFFICE,
Philad., June 7, 1838.

Received of E. Kohne and John Bohlen, administrators to the estate of Frederick Kohne, dec'd, one hundred and eighty dollars

eighty-seven cents, being two and one half pr. cent. collateral inheritance tax on $7,234 80 cts., personal estate of the said deceased.

GEO. W. SOUTH,
County Treasurer.

$180 87.

Extract from 9th Account.

1839, June 12th.—By paid to the county treasurer for collateral inheritance retained in this account—$167 15.

This account, filed June 17th, 1839, is signed and sworn to by Eliza Kohne and John Bohlen, surviving executors, before J. B. Sewall, dep'y reg'r.

Extract from 10th Account.

1840, May 26th.—By paid to George Read, county treasurer, for collateral inheritance tax for this year—$172 84.

This account, filed June 3d, 1840, is signed by Eliza Kohne and John Bohlen, surviving executors, before J. B. Sewall, dep. reg'r.

Extract from 11th Account.

1841, June 7th.—Paid to William Peirsoll, register of wills, for collateral inheritance tax for this year—$169 06.

This account, filed June 8th, 1841, is signed and sworn to by Eliza Kohne and John Bohlen, surviving executors, before William Peirsoll, register.

Extract from 12th Account.

1842, June 3d.—By paid to William Peirsoll, register of wills, for collateral inheritance tax of this account—$172 46.

This account, filed June 7th, 1842, is signed and sworn to by Eliza Kohne and John Bohlen, surviving executors, before Wm. Piersoll, register.

Extract from 13th Account.

1843, June.—By paid to John Painter, register of wills, for collateral inheritance tax, returned this year, as mentioned in this account—$165 65.

This account, sworn to by Eliza Kohne and John Bohlen, surviving executors, &c., before Robert F. Christy, dep'y register, June 2d, 1853.

Extract from 14th Account.

1844, May 26.—By paid to John Painter, register of wills, for collateral inheritance tax during this year—$162 50.

NOTE.—An item similar to this may be found in the 15th account.

This account is signed and sworn to by Eliza Kohne and John Bohlen, surviving executors, before R. F. Christy, dep. reg., May 28th, 1845.

Extract from 16*th Account.*

1846, May 27.—By paid to for collateral inheritance tax this year, $162 50.

NOTE.—A similar payment may be found in the 17th acc't, in the 18th acc't, and in the 19th acc't, with a small variation.

Sworn to by Eliza Kohne and John Bohlen, before Robt. F. Christy, May 29th, 1846.

Affidavit to 17*th Account.*

REGISTER'S OFFICE,
May 28, 1847.

I do swear that this account, as it stands stated and settled, is just and true, &c. The collateral has been paid; and also Eliza Kohne, the executrix, is sick, and at present out of the State, and unable to be here at the filing of this account.

(Signed) JOHN BOHLEN.

Sworn and subscribed before me the date above.

A. BROWN, *Register.*

18th account, filed June 3, 1848, sworn to same day by Eliza Kohne and John Bohlen, executors, before A. Brown, register.

Extract from 19*th Acc't, filed June*, 1849.

1849, March 2.—By paid to A. Brown, register of wills, for collateral inheritance tax, on an account rendered at the probate of wills of the annual sum of $3,000 00, directed by Mr. F. Kohne's will to be taken out of his bequest to his nephew, M. W. Fontaine, and to be invested annually until the youngest child of his said nephew becomes of age, which has taken place now, being on $89,377 28, at 2½ per cent., $2,234 43.

This account sworn to by Eliza Kohne (at the same time certifying that John Bohlen was confined to his bed and unable to sign) before A. Brown, register, June 8, 1849.

Extracts from 20*th Account, filed May* 1, 1850.

1850, Jan. 3.—By paid to John C. Lang, attorney of M. W. Fontaine, for six months' interest on $151,000, Ohio loan bequeathed to him, being from 1st July, 1849, to 1st January, 1850 - - - - - - - - -	$4,530 00
By collateral inheritance tax, 2½ pr. ct. - - - -	113 25
	$4,416 75

1850, March 11. By paid to Thos. C. Bunting, register of wills, for collateral inheritance tax retained this year from M. W. Fontaine on $4,530 00, 2½ per cent. -		$113 25
Ditto $4,530, 2½ pr. ct. - - - - -		113 25
Wm. Hazard 120, " - - - - - -		3 00
		$129 50

This account signed and sworn to by Eliza Kohne, at Charleston, S. C., before Lewis F. Robertson, com'r of deeds for Penn'a, 20th April, 1850.

Extracts from 21st Account of Eliza Kohne, sole surviving Executrix, &c., filed Nov. 28th, 1850, to wit:

1850, July 1st. By paid to John C. Lang, attorney of M. W. Fontaine, 6 months' interest on $151,000, Ohio loan - - - - - - - - - -	$4,530 00
Less tax, 2½ pr. ct. - - - - - - - - -	113 25
	$4,416 75

July 6. By paid Simon Mudge, tax collector for Philadelphia county, and Pennsylvania State tax for the present year, viz:

31 shares Santee canal stock, $3,100 - -	$17 05	9 30
Mortgage at Charleston, 5,000 - - -	27 50	15 00
Moneys loaned, $196,000 - - - -	1,078 00	588 00
Domestic loans, $125,000 - - - -	687 50	
Silver plate, $1,496 - - - - -	8 22	4 50
	$1,818 27	$616 80

1850, May 26. By paid to Wm. Hazard, in Charleston, 6 mos. annuity, from 26th Nov., 1849, to 26th May, 1850, at $20 00 per month - - - - -	$120 00
Less collateral inheritance tax - - - - -	3 00
	$117 00

Sept. 20. By paid legacy to the Society of the Protestant Episcopal church for the advancement of Christianity in South Carolina - - - - -	$5,000 00
Less *less* collateral inheritance tax, (206) - - -	125 00
	$4,875 00

By paid legacy to Ladies' Benevolent Society of Charleston, S. C. - - - - - - - - - $5,000
Less collateral inheritance tax - - - - - - 125

$4,875—267

Sept. 20th, 1850. By paid legacy to Shinas' Dispensary in Charleston, S. C. - - - - - - - $10,000
Less collateral inheritance tax - - - - - - 250—268

$9,750

1850. Sept. 24th. By paid legacy to Bishops' fund, in Charleston, S. C. - - - - - - - - $5,000
Less collateral inheritance tax - - - - - - 125—269

$4,875

Oct. 15th. By paid to Thos. C. Bunting, register of wills, for collateral inheritance tax on M. W. Fontaine's interest, collected in July last, $4,530, at 2½ pr. ct.—257—$113 25.

1850. Nov. 28th. By paid collateral inheritance tax on $401,699 26, at 2½ pr. ct.—$10,041 23.

REGISTER'S OFFICE, *Nov.* 28, 1850.

I do swear that this account, as stated and settled, is just and true; and the collateral tax on the above has been paid, to the best of her knowledge and belief.

(Signed) ELIZA her ⋈ mark. KOHNE.

Sworn and subscribed before me the date above, she being unable to write her name, but make her mark.

THEO. T. DERINGER,
Dep. Register.

Endorsed: "F."

F.

The final and distributive account of Eliza Kohne, as surviving Executrix of the Estate of Frederick Kohne.

DR.

1850. Nov. 28. The said accomptant charges herself with the balance of the 21st account, rendered at the probate of wills this day, audited on the 19th of Feb'y, 1851, and confirmed by the orphans' court on the 7th of March, 1851 - - - - - - - - - - $248,707 10

N. B. The above balance of the above named account, viz., $248,707 10, consisted, not of money, but of the stocks, loans, cash, and securities specified on the opposite page.

1852. March 15.	By cash paid register's fees - - -	$9 69
	Do. do. collateral inheritance tax -	1,554 42
	Do. do. do. do. -	1,554 42
		$3,118 53

REGISTER'S OFFICE, *March 15th*, 1852.

I do swear that this account, as stated and settled, is just and true, to the best of my knowledge and belief.

(Signed) JOHN C. LANG,
Att'y in fact of E. Kohne.

Sworn and subscribed before me the date above.

THOS. C. BUNTING,
Register.

Signed in our presence this above account, having been read to Mrs. Eliza Kohne, in our hearing, item by item.

ELIZA KOHNE.

B. T. NEUFVILLE,
CATHARINE WHITE.

E. E. Philad'a, July 24th, 1851.

CR.

1850. Nov. 28.	By this amount p'd to Jno. C. Lang and Wm. Ravenel, as trustees for Eliza Kohne, being her ½ of the residuary personal estate of the testator, as per agreement dated the 18th Sept., 1850, between Mrs. E. Kohne, M. W. Fontaine, and Conrad Tamper, the same having been paid in the following stocks, securities, cash, and plate, viz:		
$100,000 00	So. Ca. 6 pr. ct. loan, at 108 pr. ct. - - - -	$108,000 00	
1,775 25	So. Ca. 6 pr. ct. loan, at par	1,775 25	
3,964 39	do. 3 do. at 62 pr. ct. - - - -	2,457 92	
	Mortgage of J. E. McPherson - -	6,000 00	
	372 shares Santee canal, $5 - - -	1,860 00	
		$120,093 17	
1851. Jan'y 15.	By cash paid to Wm. Ravenel for her - - - - -	3,512 07	
	By amount of silver plate - - -	748 31	
			$124,353 55

1850 Nov. 28. By this am't p'd to Jno. C. Lang and Wm. Ravenel, as trustees for M. W. Fontaine and Conrad Trimper respectively, being the sum of their respective expected shares ($\frac{1}{4}$ cash) of the residuary personal estate of the testator, as p'r agreement dated 18th Sept., 1850, between Mrs. E. Kohne, M. W. Fontaine, and Conrad Trimper, the same having been paid in the following stocks and securities, viz:

By Chesapeake and Del. canal loan, $12,040 82, 98 pr. ct. - - -					$11,800 00
By Schuylkill Nav. stock, 180 shares, $12					2,160 00
" Phil'a city	6	pr. ct.	loan, 12,000, $5 -		12,600 00
" "	5	"	13,700, 88 -		12,056 00
" "	6	"	24.200, 3 -		24,926 00
" county	6	"	5,635 56, $1\frac{1}{2}$		5,720 10
" Ohio	6	"	3,000, $1\frac{1}{2}$ -		3,016 45
" Kentucky	6	"	4,000, $6\frac{1}{2}$ -		4,260 00
" Tennessee	6	"	2,800, 3 -		28,840 00
" "	5	"	2,300, $82\frac{1}{2}$ -		18,975 00
				$124,353 55	
$\frac{1}{2}$ of it for Mr. M. W. Fontaine, in Rehda - - -					$62,176 78
" " Conrad Trimper, in Lombardy - - -					62,176 77
					$248,707 10

G.

From the Assessor's Book for 1810, (*Penn Township.*)

Peter Nimson, lab'r, personal - - - - - - -		25
And for Frederick Kohne's estate, 30 acres land	1,850	
Improvements - - - - - - - -	2,000	
4 horses - - - - - - - - -	80	
1 cow - - - - - - - - -	8	
3 dogs.		3,938

Middle Ward Co. Tax for 1819. *P.* 369.

Frederick Kohne's - - - - - -	$10,000	25

Assessment Book for Middle Ward, 1850, *East precinct.* *P.* 52.

	City.	State.
House on Chesnut st., between 10th and 11th -	$27,600	
8 shares South Carolina bank stock - - -	200	
Money loaned - - - - - - - -	3,053	
Domestic loan - - - - - - - -	3,000	
Furniture - - - - - - - -	2,000	
One carriage - - - - - - - -	400	
Two horses.		

Eliza Kohne and John Bohlen, Ex'rs of F. Kohne.

	City.	State.
Mortgage	$3,000	
31 shares Santee Canal Co.	3,100	
Money loaned	196,000	
Domestic loan	125,000	
Silver plate in use	1,496	
One back stable and lot, 100 ft. front by 90 ft. deep on Marble st., back of Acad'y of Fine Arts	8,150	

Middle Ward, 1837. (*P.* 61.)

Chesnut st., between 10th and 11th.—No. 311.

	County.	State.
Mrs. Eliza Kohne's estate—one 3 story brick house, hot-house, stables, and lot 66 ft. front by 268 ft. deep, to Marble st.	$27,600	$27,600
Mrs. Eliza Kohne—		
8 shares So. Ca. bank stock	200	200
Stocks in other States	3,053	3,053
" " "	3,000	3,000
Furniture	2,000	2,000
1 carriage	400	400
2 horses	200	200
1 plain gold watch.		
1 dog.		

Middle Ward, 1852. (*P.* 267.)

Marble st., south side.

	County.	State.
Mrs. Eliza Kohne, one brick stable, and lot 100 feet front by 90 feet deep	$8,150	$8,150

H.

UNITED STATES OF AMERICA,
South Carolina District, City of Charleston, ss:

Be it remembered, that on this fifth day of February, in the year of our Lord one thousand eight hundred and fifty-six, I, Robert C. Gilchrist, a commissioner duly appointed by the circuit court of the United States for the district of South Carolina, in the sixth circuit, under and by virtue of the act of Congress entitled "An act for the more convenient taking of affidavits and bail in civil causes depending in courts of the United States," passed February 20th, 1812, and the act of Congress entitled "An act in addition to an act, entitled An act for the more convenient taking of affidavits and bail in civil causes depending in courts of the United States," passed March 1st, 1817, and the act entitled "An act to establish the judicial courts of the United

States," passed September 24th, 1789, did call and cause to be and personally appear before me, at his office in St. Michael's alley, in the city of Charleston, in the said district of South Carolina, James L. Petigru, esq., to testify, and the truth to say, on the part and behalf of the defendant in a certain suit or matter of controversy, now depending and undetermined, in the circuit court of the United States for the eastern district of Pennsylvania, in the third circuit, wherein the "Commonwealth of Pennsylvania" is plaintiff, and William Ravenel, a citizen of South Carolina, and executor of Eliza Kohne, deceased, is defendant.

And the said James L. Petigru, esq., being about the age of sixty-four years, and having been by me first cautioned and sworn to testify the truth, the whole truth, and nothing but the truth, in the matter of controversy aforesaid, I did carefully examine the said James L. Petigru, esq., by the interrogatories and cross interrogatories filed in the said circuit court of the eastern district of Pennsylvania, and he did thereupon depose, testify, and say as follows, viz:

To the first interrogatory:

1st. That he was intimately acquainted with Mr. Edward Neufville, and through him was introduced to his sister, Mrs. Eliza Kohne, in 1812, and for the last 20 years of her life he was a frequent visitor at her house, in Charleston; saw her sometimes in Philadelphia; he corresponded with her in her absence.

To the second interrogatory:

2d. That he has often heard Mrs. Kohne say that she was born in Charleston, and that her father and mother were natives of the same place, and that she never went away till after the fall of Charleston in the year seventeen hundred and eighty, (1780.) That her father was then taken off as a prisoner to St. Augustine, and her mother took refuge in Philadelphia, where she and her daughter continued until the cessation of hostilities; that they then returned to Charleston, where she resided without interruption until her marriage. That she married in May, eighteen hundred and seven, (1807,) to Frederick Kohne, then and for many years previously a resident of Charleston, where they resided at first all the year, and afterwards alternately between that place and Philadelphia.

To the third interrogatory:

3d. That Mrs. Kohne died in Philadelphia on sixteenth of March, eighteen hundred and fifty two, (1852) in the eighty-fifth (85) year of her age.

To the 4th interrogatory:

4th. That without assuming the province of a judge, to decide on the question of a domicil, he can state what Mrs. Kohne has told him, and what she herself thought, on the subject of her domicil. She divided the year between Charleston and Philadelphia, and had in both places a handsome house, stored and provided with every comfort for residence, and attended to all the year round by a set of domestics. She

made the journey from one city to the other in her own carriage, until late years, when she began to avail herself in part of the use of the railroad; she used to be attended by one of her maids, and to be driven by her own coachman all the way. In latter times, laws were made in So. Ca. against the migration of colored people, which caused a change, and she was accompanied by one set of servants to Baltimore, where the others met her, and by the other set the rest of the way. She left Charleston for the last time on the thirtieth (30) April, eighteen hundred and fifty (1850;) to escape the fatigues of the land carriage, she was induced to take the steamboat to Wilmington, tho' she had an abhorrence of the sea; witness saw her on board the steamboat; knows that she intended to return in the fall. He saw her in August of the same year, in Philadelphia; her health was then sinking, and she remained though the winter from necessity, still hoping to recover strength for the journey; in eighteen hundred and fifty-one (1851) her health continued to decline. She had her nephew from Charleston with her, and late in the summer or early in the fall of eighteen hundred and fifty one (1851) she told witness that she would retain him with her until she returned; but she was then less able to undertake the journey than the preceding winter, and remained in Philadelphia until she died. The question of domicil was familiar to her mind. It was brought to her attention long ago, when she was required in Philadelphia to pay a tax on her whole income. She objected to pay because she was a resident of South Carolina, and the income derived from South Carolina property, in part at least. That witness was consulted by her, and explained to her the definition of domicil, as including the idea of a permanent home, or a settlement with the intention of remaining, and the distinction between the domicil of origin and acquired domicil. She thought her husband's idea was that he was equally a citizen of Pennsylvania and South Carolina, and that since she had become widow her domicil was South Carolina, because it was her domicil of origin, and her actual residence as much as Philadelphia, and the place where all her relations lived, and where she kept her muniments of title and important papers, and, as far as her intention was concerned, it was her domicil by choice. Witness advised her to pay the tax for once rather than incur the expense of resisting, and she did so without yielding her opinion. On other occasions the subject was talked of by her, and others in her presence, on account of Mr. Kohne's bequest to the theological seminary, whether it was to be considered a donation from Pennsylvania or South Carolina. She thought that Mr. Kohne's idea was that he belonged equally to both States; but that she, at least since his death, belonged to South Carolina. In eighteen hundred and fifty-one, (1851,) she spoke to witness of an intention of having part of the Charleston house removed to Philadelphia; witness told her it would tend to show a change of domicil, upon which she answered with decision, that if such was the case she would not do it, and it was not done.

To the fifth interrogatory:

5th. That Mrs. Kohne had two fine houses, as witness has already said, one in Philadelphia and one in Charleston, which were both kept furnished and stocked with servants all the year round.

To the sixth interrogatory:

6th. He does not recollect anything more, except that he is disinterested, has received his legacy, and is under no obligation to refund.

Cross-interrogatories.

To the first interrog.:

1. That Eliza Neufville, late Mrs. Kohne, the lady referred to, was married in the month of May, eighteen hundred and seven, (1807,) to Frederick Kohne, a native of Prussia, then resident in Charleston, who died in Philad'a, as witness has heard Mrs. Kohne say. Witness had no personal acquaintance with Mr. Kohne, but from Mrs. Kohne has heard that after their marriage Mr. Kohne resided at first in Charleston altogether, and in time acquired a residence in Philadelphia also, and lived alternately, according to the change of seasons, in one or the other till towards the end of his life, when his strength failed, and he was too weak to move, and was confined to Philadelphia by weakness at the usual time of migration. As to which place is to be regarded as his residence, that, as witness supposes, is a question to be decided according to the facts as they are ascertained.

To the second inter.:

2d. That Mrs. Kohne did continue with her husband—his residence was her residence at the time of his death.

To the third inter.:

That Mr. Kohne had a handsome house in Philadelphia, which may certainly be called a mansion or a residence; but whether the house in Charleston, or the house in Philadelphia, is to be called "the mansion," or "the residence," by way of preference, is a question which he does not think within his province as a witness to decide.

To the fourth inter.:

4th. That after her husband's death Mrs. Kohne occupied the Chesnut st. house in the summer months, from May until October, with occasional excursions for health or pleasure, and she occupied the Charleston house with the same regularity from November until May, with fewer excursions, except the winter of eighteen hundred and twenty-nine and thirty, (1829–'30,) which, or a part of which, she spent in Savannah; and she spent part of the summer of eighteen hundred and forty-seven (1847) in the mountains of North Carolina. These were the only deviations which he recollected from the routine in which her life was passed at the South. He never saw her at her country seat at Turner's lane but once, when he accompanied her in her carriage to that place for a drive. That he knows from her conversation that she occupied that place from her husband's will.

To the fifth inter.:

5th. That the Chesnut street house was furnished; and though he

never was in it during Mrs. Kohne's absence, he has no doubt that it was occupied by her servants all the year round.

To the sixth inter.:

6th. That he has not retained any distinct recollection of what Mrs. Kohne may have told him as to the household or farming economy of Turner's lane. That he thinks there was a man there when he saw it, but whether a tenant or gardener, farmer or overseer, he could not say. The place seemed to him to be somewhat neglected.

To the 7th interrog.:

7th. That in Mrs. Kohne's house, in Charleston, there was a set of domestics whom he recollects, namely, Shitira, an old woman, Emma, Margaret, Jacob, middle aged, Peter and Carolina, youths. Others were hired, but these were a permanent body. They attended on her when present, and when she set out for the North one or two of them accompanied her on the way, sometimes all the way to Philadelphia, but of late years only to Baltimore. The others remained, and were joined by those who returned, and they were fed and maintained by her in her absence as well as when present. They were all her slaves. Jacob and Carolina were bought; the others were born in her possession. She had taken measures to secure to them their freedom, but they could not be legally emancipated here. In the protracted weakness and sufferings of her last days, she summoned her servants in Charleston to her to take part in the cares which her situation required, and all that witness has mentioned went, except Shitira, who remained. Mrs. Kohne expressed to witness much embarrassment on this subject, because if she recovered her health she would find difficulty in taking them back to Charleston. Witness encouraged her to rely on the influence of her friends to obtain permission.

(Signed) J. L. PETIGRU.

Sworn to and subscribed the day and year above written.

(Signed) R. C. GILCHRIST,
U. S. Commissioner.

Authenticated by H. Y. Gray, clerk of circuit court South Carolina district.

Endorsed: United States of America, E. dist. of Penn'a, C. C. Com'th of Penn'a, vs. Wm. Ravenel, a citizen of So. Ca.; deposition of J. L. Petigru; (Signed) R. C. Gilchrist, U. S. com'r; (copy) filed 27 Feb., 1836.

I.

Mrs. Eliza Kohne's Will.

STATE OF SOUTH CAROLINA.

ORDINARY'S OFFICE,
CHARLESTON, S. C., *17th March*, 1852.

In the name of God, amen. I, Eliza Kohne, of Charleston, South Carolina, widow, make this my last will and testament.

1st. I direct all my just debts to be fully paid and satisfied.

Item. Being authorized by the will of my late husband, Frederick Kohne, esq., to appoint the sum of ten thousand dollars, I do, in exercise of the said power, give the sum of five thousand dollars, parcel of the said ten thousand dollars, to my executors hereinafter named, to be invested in such good public or private securities, yielding and paying an interest, as they may deem fit, with power to change the investment from time to time, at their discretion, in trust to pay, from time to time, the interest of the said sum to my nephew, Benjamin S. Neufville, during the term of his natural life, and from and after his decease, in trust to divide the principal and the accruing interest among all his children then living, and the issue of such of them as may be dead; the issue of a deceased child taking such part only as their deceased parent would have taken if living. And I give the sum of two thousand dollars, other part of the said ten thousand dollars, to my said executors, in trust to invest the same in manner aforesaid, with power to change the investment as they may deem advisable, and to pay the clear net income and interest thereof from time to time into the hands of my cousin, Miss Frances Moore, during her natural life; and after her decease, in trust for such person or persons, and to and for such use and uses, as she by her last will and testament or any writing in her lifetime may limit and appoint.

And I give the sum of two thousand dollars, other part of the said ten thousand dollars, to my said executors, in trust to invest the same forthwith, or as soon as practicable after my decease, in stock of the State of South Carolina, and apply the interest or dividends towards the education and maintenance of Frederick Neufvill, son of my unfortunate nephew, Isaac Neufville, until he shall attain the age of twenty-one years, and then to assign and transfer the same to and for his own proper use and behoof forever; and in case he shall die under the age of twenty-one years, without leaving issue, to the children of the said Benjamin S. Neufville.

And I give the sum of one thousand dollars, residue of the said ten thousand dollars, to my friends, Isabel Wilson and Mary Wilson, of Philadelphia.

And being empowerd by my husband's will to dispose of his houses in Broad st. and Short st., in Charleston, to religious uses, in exercise of the said power, I give and devise all that house and lot on Broad st. where Mr. Kohne resided, and in which I have resided since his decease; also the house and lot on Broad st. in the occupation of Mr. Charles Dawson; and also the lot on Short st., as described in Mr. Kohne's will, to and for the proper use and behoof of the Protestant Episcopal Society for the Advancement of Christianity in South Carolina.

Item. To Mrs. Margaret Bowen, relict of the late Bishop of Charleston, I give the sum of one thousand dollars, in the loan of the Northern Liberties and Spring Garden Water-works, Pennsylvania.

Item. To my cousin, Miss Frances Moore, I give my gold repeating

watch and the book-case in my Philadelphia house, and all the books it contains; also the furniture of my drawing-room in Charleston, being the southwest parlor on the first floor.

Item. To my cousin, Mrs. Anna Eliza Hume, of Charleston, I give all my oil paintings, except the portraits of my uncle and brothers; also all my valuable set of diamonds, which are in a small wooden box, placed in a trunk containing my papers.

Item. To my nephew, Benjamin S. Neufville, I give the portraits of my uncle and brothers; also one dozen large spoons, one dozen dessert-spoons, and one dozen small teaspoons, all marked F. E. K.; also one large soup-spoon, marked J. N. E.; all of silver.

Item. To my cousin, Emma Moore, I give all my white and gold china, in my Broad st. house.

Item. To my grand niece, Julia Yancey Neufville, I give all the furniture of my Broad st. house, not herein otherwise disposed of.

Item. To my friends, Miss Mary White and Miss Catharine White, of Philadelphia, I give the sum of one thousand dollars in the Deaf and Dumb stock—part of my loan to the Pennsylvania Institution for the Deaf and Dumb.

Item. To my cousin, Mary Sherman, formerly Mary Flagg, eldest daughter of Henry Collins Flagg, esq., of New Haven, I give two round open-worked silver baskets, marked F. E. K.

Item. To my cousin, Dr. Edward Mitchell, of Edisto, I give my largest book-case in my Charleston house, with all the books which it contains.

Item. To my friend, John C. Lang, of Philadelphia, five hundred dollars.

Item. To the South Carolina Society, of which my grandfather was one of the founders, two hundred dollars.

Item. To my friend, John C. Lang, of Philadelphia, esq., the sum of two thousand dollars in the Alms-house loan—part of my loan to the guardians for the relief and employ of the poor of the city of Philadelphia, the district of Southwark, and the townships of Northern Liberties and Penn, in trust, to be applied by him for the benefit of my faithful servants, Susan Inglis and Edward James, of Philadelphia.

Item. I give to the said John C. Lang and his heirs a certain brick messuage or dwelling-house, and lot of ground, on the east side of Twelfth street, seventeen feet northward from Washington street, Philadelphia, containing in front on Twelfth st. fourteen feet, and in depth sixty-three feet, being the premises conveyed to me by Daniel Thorn and wife, subject to a ground rent of sixty dollars, which ground rent I have since paid off and extinguished, in trust for the sole and separate use of the said Susan Inglis, and her heirs and assigns, not subject to the debts or control of any husband whom she may marry: Provided nevertheless, that it shall and may be lawful for the Edward James aforesaid, brother of the said Susan Inglis, to occupy for his own personal use one room in the said house, without paying rent therefor, as long as he continues unmarried, but no longer;

and in case of his marriage, then, but not otherwise, I give the sum of five hundred dollars to the said John C. Lang, in trust for the said Edward James, which five hundred dollars are to remain in Mr. Lang's hands for the purpose.

Item. I give to the said John C. Lang eight shares in the stock of the Planters' and Mechanics' Bank, standing in my name, in trust for the said Edward James.

Item. I give to the said Susan Inglis all my furniture in my house in Turner's lane, in the county of Philadelphia; also all the kitchen furniture in my house in Chesnut street.

Item. To Phillis Gordon, my servant, of Philadelphia, I give all my household furniture in the northwest room, on the first floor, of my Chesnut st. house, and in the room above it.

Item. I give to the said Susan Inglis and Edward James all my common table and sheeting linen, and all my common china and glassware belonging to my Chesnut st. house.

Item. I give my house and lot on Anson st., Charleston, to my nephew, Benjamin S. Neufville, during his life, and from and after his decease to his children, Julia Yancey Neufville, Benjamin Neufville, and Henry Neufville, and their heirs; but if either of them should die in the lifetime of the said Benjamin S. Neufville, without leaving issue, then after the death of the said Benjamin S. Neufville, to the survivors or survivor of them, the said Julia Yancey Neufville, Benjamin Neufville, and Henry Neufville, forever. And in case the said Benjamin S. Neufville should become insolvent, and his estate be assigned under any insolvent or bankrupt law, or the said house and lot be extended, or taken in execution by his creditors, or his creditors should go about to make his estate therein liable for his debts, then it is my will that his estate in the premises shall cease, and the remainder of his children vest in possession, subject to the same limitation; in case any of them dying in his lifetime without leaving issue, as is above expressed, to the survivors and survivor of them.

And whereas I have a claim on the estate of my husband, under my marriage settlement, which claim is now in suit, and it is my intention, in case of the recovery of that claim, to dispose of the money that may thereby accrue to me or my estate as hereinafter mentioned; therefore, in case the said claim shall be established, and in that case only, I give and bequeath, to be paid out of the aforesaid fund, and not otherwise, that is to say:

To my nephew, Benjamin S. Neufville, ten thousand dollars.

To the Misses Hazlehurst, (Juliana, Lois, Mary, and Harriet,) of Philadelphia, four thousand dollars.

To my friends, the Misses Whyte, (Mary and Catherine,) of Philadelphia, two thousand dollars.

To John C. Lang, esq., two thousand dollars.

To my cousin, Frances Moore, three thousand dollars, for her own use,

To my said cousin, Frances Moore, for purposes which I will explain to her, six thousand five hundred dollars.

To Mrs. Elizabeth Wilson, of Philadelphia, four thousand dollars.

To Miss Margaret Vaux, of Philadelphia, one thousand dollars.

To my friend, James L. Petigru, esq., of Charleston, five thousand dollars.

To my friend, John Bohlen, of Philadelphia, one thousand dollars.

To my young friend, Mrs. Fanny Hanckel, two thousand dollars.

To my friend, William Ravenel, esq., of Charleston, one thousand dollars.

To my cousin, Dr. Edward Mitchell, two thousand dollars.

To my friend, Mrs. Margaret Bowen, one thousand dollars.

To my neighbor, Mrs. Eliza Brown, one thousand dollars.

To Edward James two thousand dollars.

To Phillis Gordon one hundred dollars.

To the vestry and wardens of St. Michael's church, in Charleston, ten thousand dollars.

To the widows' house in Philadelphia, called the Widows' and Single Women's Society, two thousand dollars.

To the Domestic and Foreign Missionary Society of the Protestant Episcopal Church in the United States of America, incorporated by the State of New York in the year 1846, ten thousand dollars, to be applied *to be applied* to the objects of the society in the following manner, that is to say, three-fourths of the said legacy to the promotion of domestic missions, and the residue to the support of foreign missions.

To Bishop Chase, for the purpose of completing Jubilee college, if so much be needed, otherwise to the promotion of piety within his diocese, three thousand dollars.

To St. James church, Seventh street, Philadelphia, by whatever name it may be known in law, three thousand dollars.

To Grace church, Sullivan's island, five hundred dollars.

To the college of Charleston five hundred dollars.

To the support of Divine service and religious instruction in the church which is proposed to be built under the protection or patronage of the South Carolina Convention of the Episcopal Church, which it is understood is to be called Calvary church, or by whatever name it may be called, five hundred dollars, to be paid to the bishop of the diocese, towards the promotion of the preaching of the Gospel to the black and colored people of Charleston.

To the Floating chapel, Philadelphia, three hundred dollars.

To the trustees of the Hopkins fund, Charleston, three hundred dollars.

To the Moral Reform Society of Philadelphia, five hundred dollars.

To the African Orphan Shelter, Philadelphia, five hundred dollars.

Should there be a deficiency of the fund, after deducting all expenses, to answer the aforesaid twenty-nine legacies, they are to abate in proportion. And if there should be a surplus of the fund to be recovered from the estate of my husband, as aforesaid, after payment of said

last mentioned legacies and expenses, I give the residue of all that may be recovered, as aforesaid, to my nephew, Benjamin S. Neufville, and his children.

Item. To my friend, James L. Petigru, esq., of Charleston, I give all my horses and carriages in Charleston, and half of my stock of wines in Philad'a, and the engraving of Bishop White's portrait in my drawing-room, in Charleston.

To my friend, Dr. Charles D. Meigs, of Philadelphia, I give the other half of my stock of wines in Philadelphia, and all my German damask table linen in my Chesnut st. house.

To my friend, William Ravenel, esq., of Charleston, I give all my German damask table linen, marked German damask table linen, in my house in Broad street.

To the Misses Hazlehurst, above mentioned, I also leave all the furniture of my southeast parlor, on the first floor, and in the southeast chamber on the second floor of my Chesnut st. house.

Item. To Julia Yancey Neufville, all the rest of my plate not otherwise disposed of.

I annex this condition to the several legacies contained in this will, or any codicil which I may make thereto—that is to say, that if any legatee dispute my will, or claim against any legacy therein written, or undertake, by any legal proceedings, to have any legacy contained in my will, or any codicil thereto, declared void, I revoke every gift to such legatee, and give the legacy or legacies of such legatee to the Society for the Advancement of Christianity in South Carolina, for the use of the bishops' permanent fund. And if any legacy or provision made by this will should fail, as being contrary to law, I give everything which may be judicially held not to pass to the object of my bounty, as herein declared, to the same Society for the Advancement of Christianity in South Carolina, for the bishops' permanent fund. All the rest, residue and remainder of my estate, whatsoever and wheresoever, I give and bequeath to my cousin, Miss Frances Moore. Lastly, I nominate, constitute, and appoint my friends, William Ravenel and John C. Lang, of Philadelphia, and James L. Petigru, executors of this my last will and testatment, hereby revoking all other wills by me at any time made, and declaring this to be and contain my last will and testament.

In witness whereof, to this will, written on six sheets, I have subscribed my name to each sheet, and hereto set my hand and seal, the fourteenth day of April, in the year of our Lord one thousand eight hundred and forty-eight.

ELIZA KOHNE, [SEAL.]

Signed, sealed, published, and declared by the said Eliza Kohne, the testatrix, as and for her last will and testament, in the presence of us, who, in her presence and at her request, have hereunto subscribed our names, ("house") being erased, and "lot" interlined, on the last

line of first sheet, and the last two lines on the fifth sheet, beginning with the word "lastly" and ending with "and," being erased.

HENRY D. LESESNE,
HENRY H. TIMROD,
E. B. BAKER.

A Codicil to my will just executed, and bearing the same date to this paper.

To Mrs. Frances Moore, widow, I give my two English cut glass pitchers, and all my English cut glass, consisting of dishes and decanters, in my Broad street house. Instead of the rest and residue of the furniture in my Broad street house, given by will to my great niece, Julia Yancey Neufville, I now give to my said niece the furniture in my southeast parlor, first floor, and southwest, southeast, and northwest chambers, second floor, of my Broad street house. All the rest of the furniture of my Broad street house I give to my cousin Frances Moore.

I give the two largest looking-glasses on the first floor in my Chesnut st. house to my cousin Anne Eliza Hume.

I give to Mrs. Margaret Vaux all the furniture in the drawing-room of my Chesnut street house, not otherwise disposed of; also all my English cut glass in my Chesnut st. house. I give to Mrs. Joseph L. Roberts my dinner set of English china in my Chesnut st. house.

I give to Mrs. Elizabeth Wilson, of Philadelphia, all the furniture in the northwest and southwest chambers on the second floor in my Chesnut street house.

I give to Miss Mary White and Miss Catharine White all my white and gold china, and all my white painted tables and chairs, in my Chesnut street house.

To my friend, Mrs. Mary Maxwell, of Philadelphia, widow, I give my yellow carriage in Philadelphia.

To my friend, John Bohlen, of Philadelphia, I give my garden chair in my Chesnut street house.

To Mrs. Sarah Pogson Smith I give a certificate for one thousand dollars in the Alms-house loan of Philadelphia, being a security for so much money.

And I hereby declare this to be a codicil to my said will, and direct the same to be taken as part thereof, ratifying and confirming the said will in every thing, except where the same is hereby altered. In witness whereof, I, the said Eliza Kohne, have to this codicil set my hand, the fourteenth day of April, in the year of our Lord one thousand eight hundred and forty-eight.

ELIZA KOHNE.

Signed, sealed, published, and declared by the said Eliza Kohne, as and for a codicil to be added to and considered as part of her last

will and testament, in the presence of us, who, in her presence and at her request, have hereunto subscribed our names.

HENRY D. LESESNE,
HENRY H. TIMROD,
E. B. BAKER.

A further and second Codicil to the last will and testament of Eliza Kohne, of Charleston, widow, dated the fourteenth day of April, in the year of our Lord one thousand eight hundred and forty-eight.

In case my estate, with the aid of my marriage settlement, should leave a surplus, after paying all the legacies already given by my will and codicil, then I give the following additional legacies; that is to say:

To my friends, the Misses Hazlehurst, of Philadelphia, mentioned in my will, two thousand dollars.

Item. To the Misses White, (Mary and Catharine,) two thousand dollars.

Item. To Mrs. Bowen, one thousand dollars.

Item. To my cousin, Dr. Edward Mitchel, two thousand dollars.

To the Rev. Edward Neufville, three thousand dollars.

Item. To the Ladies' Benevolent Society, in trust for the Hopkins fund, and in aid thereof, two thousand dollars.

Item. To the support of the bishop of South Carolina, in aid of the bishops' fund, to be paid to the trustees of the said fund, in aid of the objects thereof, nine thousand dollars.

Item. To the trustees of the Roper Hospital, in aid of the charity founded by Mr. Roper, seven thousand dollars. And whereas, by my will, the legacies given upon the faith of my marriage settlement are directed to abate in case of a deficiency, I hereby declare my will, that, in case of a deficiency to pay the whole of those legacies, then such of them as are under one thousand dollars shall be paid in full, and the others abate among themselves. And I desire this codicil to be taken as part of my last will and testament, and in all other respects confirm the same. In witness whereof, I have hereunto set my hand, by subscribing my name, this first day of April, in the year of our Lord one thousand eight hundred and fifty. Before concluding, I supply an omission, and give in addition to the foregoing legacies, and on the same terms, to my cousin, Miss Frances Moore, three thousand dollars.

Signed, published, and declared by the testatrix, Eliza Kohne, as and for a codicil to her last will and testament, in the presence of us, who, in her presence and in the presence of each other, and at her request, have hereto subscribed our names.

HENRY D. LESESNE,
WILLIAM S. DAVIDSON,
R. C. GILCHRIST.

Will, and first and second codicils thereto, proved before
M. T. MENDENHALL, Esq., *O. C. D.*
17th March, 1852.

At the same time, qualified Hon. James L. Petigru and Mr. William Ravenel, executors thereof.

A further Codicil to the last will of Eliza Kohne, of Charleston, widow.

I do hereby revoke the appointment of John C. Lang as one of my executors, and desire this to be taken as part of my will, which I do in all other respects confirm.

Dated at Philadelphia, this sixteenth day of September, in the year of our Lord one thousand eight hundred and fifty.

Signed, published, and declared by the testatrix, Eliza Kohne, as a codicil to her will, in our presence, who, in her presence, and at her request, have hereto subscribed our names.

CH. D. MEIGS, *M. D.*
J. HAMILTON, *of S. C.*
MORTON P. HENRY.

ORDINARY'S OFFICE, CHARLESTON DISTRICT,
17*th March*, 1852.

I certify the foregoing nineteen pages to contain true copies of the last will and testament, and first and second codicils thereto, of Mrs. Eliza Kohne, deceased, on file for record in said office; and also a true copy of the third codicil to said will, filed for probate in said office.

M. T. MENDENHALL, *O. C. D.*

On the 17th March, A. D. 1852, the foregoing will and the three codicils thereto were presented for probate to M. T. Mendenhall, esquire, ordinary of Charleston, South Carolina, on the oath of Henry D. Lesesne, a subscribing witness to the said will and the first and second codicils thereto; and on the same day, letters testamentary were granted on said will and the codicils thereto, to William Ravenel and James L. Petigru.

J.

Miss L. H. Hazlehurst:

I knew the late Mrs. Eliza Kohne, and was on terms of intimacy with her; I was on such terms of intimacy with her after Mr. Kohne's death; our intimacy commenced in 1831; I knew her in Charleston; I resided there; I knew from reputation that that was her birth-place; she was married there to Mr. Kohne, and after her marriage she continued to reside there without having a dwelling-house anywhere else; at and before the time of her death, she certainly considered Charleston her residence; Philadelphia was only her summer residence; she did not remain there the entire summer, it was only a few weeks, spring and fall; during the last year or eighteen months of her life, she

was compelled to remain in Philadelphia by reason of sickness; it was decidedly her wish to go to Charleston, and die there; it was her wish down to the last; all the objects of her family affection were living there—all the relatives she had; she had her dwelling-house there, with servants, down to the time of her death; she always spoke of it as her home, going to her home; myself and sisters have paid the collateral inheritance tax on our legacies, under Mrs. Kohne's will, and have no interest in this suit. A considerable portion of the time of the year or eighteen months I have before spoken of, during which Mrs. Kohne was at the North, she visited Schooley's mountain, Boston, and other places; Long branch and Schooley's mountain were the principal places.

Cross-examined by Mr. Hood. I have not resided at the South, at all, since I first came to Philadelphia; I have not even visited it; my acquaintance with Mrs. Kohne has been principally in Philadelphia; all I know of her early life, birth, and marriage in South Carolina, is from reputation; I have never been in her house in Charleston; my father and Mr. Kohne were intimate; Mrs. Kohne had her house in Chesnut st. after the death of her husband, her equipage and servants, her place in Turner's lane, "Beach forest;" there were a good many servants in the house; there were Edward, Susan, Ann Rider, and Phillis Gordon; there was a footman, which she generally changed every season; her coachman, who she hired here; sometimes she was driven by her own coachman from Charleston; she had a gardener; he lived in the country, at Turner's lane; Emma and her husband, Jacob, Peter, Margaret, came on from Charleston about 18 months before her death, and continued until her death; I think it was short of a year that Emma was here; Margaret, Peter, Emma, and Jacob, came on and resided here about 18 months; they came after her last illness; the white coachman she hired here would drive her to somewhere in North Carolina, where she was met by her coachman from Charleston; when I speak of the farm, I mean the place in Turner's lane; she had a home there also furnished; Andrew Patton had charge of the farm when she was away; he was the gardener; he lived in the gardener's house; there were no cattle at that farm, except the coach horses and the farm horse; the house in Chesnut st. was only partially supplied from the farm; there was no other farm but this; Mrs. Kohne generally arrived in the city of Phila'a about the last of May, or the first of June; she generally left for the South about the last of October; during the time she was at the North, the Chesnut st. house was the "headquarters;" she would sometimes ride up to the farm in Turner's lane; Mr. Kohne resided in Philadelphia, at the time of his death, on Chesnut st.; both he and Mrs. Kohne were in the habit of returning to the South; he was only on a visit here when he died; the home of Mr. Kohne, after his marriage, was at the South; he was not a resident of Philadelphia at the time of his death—he was only on a visit here; I knew him only by sight; he went to the same church regularly with us at Charleston; they always kept their pew there; Mr. and Mrs.

Kohne visited the South in the same way as Mrs. K. did after his death; I remember the house in Charleston; I have not been in Charleston since 1824.

Mrs. Kohne died here, and had not visited the South for about 18 months, being detained here on account of illness. She was taken ill at Long branch; she came in her carriage from Long branch to Philadelphia, on her road South. She said she would rather die upon the road to the South, than not go there; she often said so on other occasions. Her travelling in her carriage from Long branch to Philadelphia, was the usual mode in which she travelled. She continued in Philadelphia after that, until the time of her death. She never left her house in Chesnut st. after that.

Re-examined. When I spoke of Mr. and Mrs. Kohne visiting the South, and of Mrs. Kohne also doing so, I mean to say that they were going home. They visited the North, Philadelphia. When she was taken ill, she had to send home, as she called it, for her winter carpets; she had not them here. There was not furniture in every room at the farm—that is, chairs, tables, bedsteads; but not sufficient.

Re-cross-examined. Mrs. Kohne's constitution was rather delicate.

S. H. HAZLEHURST.

Sworn and subscribed, April 23d, 1856.

CHAS. F. HEAZLITT.

Julia Anna Hazlehurst and Mary Hazlehurst, being severally sworn, do say that they have heard the foregoing statement, and confirm the same in all its details.

Certified by CHAS. F. HEAZLITT,
U. S. Com'r.

Endorsed: J.—Depositions of the Misses Hazlehurst. (Copy.)

And thereupon the counsel for the said plaintiff did then and there except to the aforesaid charge and opinion of the said court; and inasmuch as the said charge and opinion, so excepted to, do not appear upon the record—

The said counsel for the said plaintiff did then and there tender this bill of exceptions to the opinion of the said court, and requested the seal of the judge aforesaid should be put to the same, according to the form of the statute in such case made and provided. And thereupon the aforesaid judge, at the request of the said plaintiff, did put his seal to this bill of exceptions, pursuant to the aforesaid statute in such case made and provided, this 19th day of November, A. D. 1856.

R. C. GRIER, [SEAL.]
Circuit Judge.

Verdict of the Jury.

And thereupon, afterwards, to wit, on the twenty-fourth day of October, A. D. 1856, the jurors aforesaid, upon their oaths and affirma-

tions aforesaid, respectively do say, that they find in favor of the defendant.

Judgment.

Therefore, it is considered by the court here, that the said plaintiffs take nothing by their writ and declaration aforesaid, but be, in mercy, &c.; and that the said William Ravenel, defendant aforesaid, recover against the said plaintiffs the sum of , by the court here, with his assent, adjudged to him for his costs and charges, &c.

UNITED STATES,
Eastern District of Pennsylvania, sct.

The President of the United States to the Judges of the Circuit Court of the United States, in and for the eastern district of Pennsylvania, greeting:

Because that in the record and process, and also in the rendering of judgment in a suit before you, between the Commonwealth of Pennsylvania, plaintiffs, and William Ravenel, a citizen of South Carolina, executor of the last will of Eliza Kohne, deceased, defendant, in a plea of debt, a manifest error has intervened, to the great damage of the said plaintiffs, as in their complaint has been stated; and as it is just and proper that the error, if any there be, should be corrected in due manner, and that full and speedy justice should be done to the parties aforesaid in this behalf, you are hereby commanded, that if judgment thereof be given, then, under your seal, you do distinctly and openly send the record and process in the suit aforesaid, with all things concerning them and this writ, so that you have the same before the Supreme Court of the United States, at Washington, on or before the first Monday of December next, that the record and process aforesaid being inspected, they may cause to be done thereupon what of right ought to be done.

Witness the Honorable Roger B. Taney, Chief Justice of the Supreme Court of the United States, at Philadelphia, this fourth day of February, A. D. one thousand eight hundred and fifty-seven, and in eighty-first year of the independence of the United States.

[L. S.]

GEORGE PLITT,
Clerk of the Circuit Court of the United States for the Eastern District of Pennsylvania.

Allowed by

J. K. KANE,
U. S. Judge E. D. Pa.

UNITED STATES OF AMERICA,
Eastern District of Pennsylvania, ss.

In obedience to the foregoing writ, I herewith transmit to the Supreme Court of the United States a full and complete transcript of

the record and proceedings of the circuit court of the United States, for the eastern district of Pennsylvania, in the third circuit, in a certain suit therein lately pending between the Commonwealth of Pennsylvania, plaintiffs, and William Ravenel, executor of the last will of Eliza Kohne, defendant.

Witness my hand and the seal of the said circuit court, at Philadelphia, this fourth day of February, A. D. 1857, and in the eighty-first year of the independence of the said United States.

[L. S.] GEORGE PLITT,
Clerk of Circuit Court.

UNITED STATES,
Eastern District of Pennsylvania, sct.

To William Ravenel, a citizen of South Carolina, executor of the last will of Eliza Kohne, deceased:

Whereas by a writ of error issuing out of the Supreme Court of the United States, holden at the city of Washington, directed to the judges of the circuit court of the United States, holden in and for the eastern district of Pennsylvania, in the third circuit, in a certain suit, wherein the Commonwealth of Pennsylvania are plaintiffs, and you, the said William Ravenel, are defendant, the said judges are directed to send the record and process of a certain suit, with all things concerning them, so that the same may be had before the said Supreme Court of the United States on the first Monday of December next, at the *the* said city of Washington, in which suit the said the Commonwealth of Pennsylvania were the original plaintiffs, and you, the said William Ravenel, the original defendant, in a plea of debt, so that the record and process aforesaid, being inspected, they the said Supreme Court may cause to be done thereupon what of right ought to be done; and the said Commonwealth of Pennsylvania having made an assignment of errors, and given good and sufficient security that the plaintiffs in error shall well and truly prosecute their said writ of error to effect, and answer all such costs as, upon an affirmance of the judgment of the said Supreme Court, may be adjudged to the defendant in error: You are hereby cited to appear (if you see cause) at the said Supreme Court, at the time and place aforesaid, to answer to the said writ of error, and the errors assigned by the said plaintiffs.

Given under my hand and seal this fourth day of February, one thousand eight hundred and fifty-seven (1857).

J. K. KANE, *U. S. Judge.* [SEAL.]

I accept service of the above citation for William Ravenel, defendant in error.

B. GERHARD, *for Def't in Error.*

Filed 25th February, 1857.